

State of Delaware



Statewide Transition Plan for Compliance with Home and Community-Based Setting Rule

March 17, 2015

Delaware Division of Medicaid and Medical Assistance
Department of Health and Social Services

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INTRODUCTION

In response to the Centers for Medicare and Medicaid Services (CMS) promulgating a rule which for the first time defines the standard of being “community-based,” Delaware – and the individuals and families we serve – is committed to the goals of enhancing the quality of home and community-based services (HCBS) and ensuring full access to the benefits of community living. The Department of Health and Social Services (DHSS) is driven by core values that enhance individuals’ access to the least-restrictive environments, promotes individual choice, and engages families and significant others. DHSS has and will continue to engage stakeholders, and will continue to facilitate and promote a robust stakeholder process as the State conducts activities toward implementation of the final rule.

The intent of the rule, also referred to as the “Community Rule,” is to ensure that people receiving federally funded home and community-based services (HCBS) have opportunities to access community services in the most-integrated settings possible. This includes opportunities to seek employment and work in competitive settings, engage in community life, control personal resources, and participate in the community to the same extent as people who do not receive HCBS. DHSS understands how important these services are to Medicaid enrollees and will work collaboratively with individuals, their loved ones, and other stakeholders to ensure continuity of services, minimal disruption, and support during implementation.

The final rule required that states submit to CMS a Statewide Transition Plan on or before March 17, 2015: 1) demonstrating the process the State will undertake to assess the HCBS provided to participants and the settings in which these services are provided and 2) describing the assessment process and timeframes to ensure full compliance with federal requirements by March 17, 2019. Delaware’s Division of Medicaid and Medical Assistance (DMMA), which is within DHSS, will submit the Delaware Statewide Transition Plan (the Plan) addressing the above requirements for all programs offering HCBS in the State.

PURPOSE

The purpose of the Plan is to describe the process the State of Delaware will use to:

- Assess current State and provider policies, standards and practices against the Community Rule;
- Assess waiver services and settings against the Community Rule;
- Develop strategies to remediate situations that are determined not to be in compliance; and
- Demonstrate Delaware’s full compliance with the Community Rule by March 17, 2019.

The specific elements addressed in the Plan include the following:
1. A description of the process to assess current policies, standards, practices, etc. against the Community Rule requirements for both the State and providers.

The specific elements addressed in the Plan include the following:

2. A description of the process that will be used to assess waiver services and settings against the Community Rule requirements, including timeframes for completion of various tasks.
3. A description of the process that was used to solicit public comment in the development of the draft Plan, including a 30 day comment period.
4. A summary of public comment received.
5. A description of how the public comment was used in the development of the Plan.
6. Time frames for producing a summary of how each setting meets or does not meet the federal HCB settings requirements.
7. Time frames for bringing State and provider policies, standards, practices, etc. into compliance.
8. Time frames for bringing all HCB settings into compliance.
9. A plan for ensuring the health and safety of participants who reside or are served in locations that need to meet corrective action requirements for the setting to come into compliance during the State's specified transition time.

The intent of the Plan is to: 1) ensure that participants receive Medicaid HCBS in settings that are integrated in and support full access to the greater community, 2) ensure the health and welfare of participants and 3) maintain the ability to receive federal funding for critical community based supports and services.

OVERVIEW OF HCBS IN DELAWARE

Delaware provides multiple HCBS for Medicaid recipients through four federally approved programs: 1) Division of Developmental Disabilities Services (DDDS) 1915(c) waiver, 2) Diamond State Health Plan (DSHP), 3) Pathways to Employment (Pathways) program and 4) Promoting Optimal Mental Health for Individuals through Supports and Empowerment (PROMISE) program. PROMISE and Pathways are administered by DMMA's sister agencies within DHSS. PROMISE is administered by Delaware's Division of Substance Abuse and Mental Health (DSAMH) under Delaware's 1115 demonstration. Pathways is administered jointly by DDDS and the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) under concurrent 1915(b)(4) and 1915(i) authorities.

The DDDS waiver, operated by DDDS under a Memorandum of Agreement with DMMA provides HCBS as an alternative to institutional placement for individuals 12 and over with intellectual developmental disabilities (IDD), including brain injury, autism spectrum disorder and Prader Willi Syndrome. As of September 2014, 980 individuals are enrolled in the DDDS waiver.

The DSHP demonstration was initially approved in 1995, and implemented on January 1, 1996. The demonstration mandatorily enrolls Medicaid recipients into managed care organizations (MCOs). In addition to acute care services such as physician and nursing services, the demonstration also provides HCBS to eligible individuals (who would otherwise receive care in a

nursing facility) through a mandated managed care delivery system called DSHP-Plus. As of December 2014, 176,454 individuals are enrolled in DSHP and 11,640 are enrolled in DSHP-Plus.

In December 2014, CMS approved two new programs that expanded the availability of HCBS options for Delaware Medicaid recipients. Pathways, effective January 1, 2015, is a program designed for persons age 14-25 with disabilities (intellectual disabilities, autism spectrum disorders, visual impairments or physical disabilities) who want to work. PROMISE, also effective January 1, 2015, is a program that provides enhanced behavioral health services and supports for persons 18 and over who have severe and persistent mental illness and/or a substance abuse disorder and who require HCBS to live and work in integrated settings. Since Pathways and PROMISE are new programs, prior to approval they had to meet all federal requirements, including requirements regarding the Community Rule. Therefore, Pathways and PROMISE are not addressed in the Plan.

The following are the HCBS to be assessed under the Plan, organized by the HCBS program under which it is provided.

DDDS Waiver HCBS

The DDDS waiver offers the following HCBS that will be addressed in the Plan (including excerpts of service definitions from the approved waiver):

Day Habilitation Services: Services that are regularly scheduled activities provided in a non-residential setting, separate from the participant's private residence or other residential living arrangement, such as assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and community living, physical development, basic communication, self-care skills, domestic skills, community skills and community-inclusion activities. Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence and personal choice. Services are furnished consistent with the participant's person-centered plan and are integrated into the community as often as possible.

Day Habilitation Services focus on enabling the participant to attain or maintain his or her maximum potential and shall be coordinated with any needed therapies in the individual's person-centered services and supports plan, such as physical, occupational, or speech therapy.

Prevocational Services: Prevocational Services provide learning and work experiences, including volunteer work and/or internships, where the individual can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated community settings. Services are expected to produce specific outcomes to be achieved, as determined by the individual and his/her services and supports planning team through an on-going person-centered

planning process evaluated annually. Prevocational Services may be furnished in fixed site locations or in community based settings.

Individuals receiving Prevocational Services must have employment-related goals in their person-centered services and supports plan; the general habilitation activities must be designed to support such employment goals. Competitive, integrated employment in the community for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities is considered to be the optimal outcome of Prevocational Services.

Residential Habilitation: Residential Habilitation Services can include assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as personal grooming and cleanliness, bed making and household chores, eating and the preparation of food, and the social and adaptive skills necessary to enable the individual to reside in a non-institutional community based setting. The scope of these services is based on the individual's need and can be around-the-clock or blocks of hours. Residential Habilitation Services may be provided in a neighborhood group home setting, a supervised or staffed apartment (community living arrangement), or a shared living arrangement (formerly titled adult foster care).

The following activities may be performed under all Residential Habilitation:

- Self-advocacy training that may include training to assist in expressing personal preferences, self-representation, and individual rights and to make increasingly responsible choices.
- Independent living training may include personal care, household services, child and infant care (for parents themselves who are developmentally disabled), and communication skills such as using the telephone.
- Cognitive services may include training involving money management and personal finances, planning and decision making.
- Implementation and follow-up counseling, behavioral or other therapeutic interventions by residential staff, under the direction of a professional, that are aimed at increasing the overall effective functioning of an individual.
- Emergency Preparedness.
- Community access services inclusions that explore community services available to all people, natural supports available to the individual, and develop methods to access additional services/supports/activities desired by the individual.
- Supervision services may include a person safeguarding an individual with developmental disabilities and/or utilizing technology for the same purpose.

Supported Employment – Individual: Individual Supported Employment Services are provided to participants, at a one to one staff to consumer ratio, who because of their disabilities, need on-going support to obtain and maintain an individual job in competitive or customized employment, or self-employment position, in an integrated work setting in

the general workforce for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. The outcome of this service is sustained paid employment at or above the minimum wage in an integrated setting in the general workforce, in a job that meets personal and career goals in order to promote community inclusion.

Supported individual employment may also include support to establish or maintain self-employment, including home-based self-employment. Supported employment services are individualized and may include any combination of the following services: vocational/job-related discovery or assessment, person-centered employment planning, job placement, job development negotiation with prospective employers, job analysis, job carving, training and systematic instruction, job coaching, on the job employment supports, social skills training, benefits support, training and planning, transportation, asset development and career advancement services, implementation of assistive technology, and other workforce support services including services not specifically related to job skill training that enable the waiver participant to be successful in integrating into the job setting.

Supported Employment – Group: Supported Employment Small Group Employment Support are services and training activities provided in regular business, industry, and community settings for groups of two (2) to eight (8) workers with disabilities. Examples include mobile crews and other employment work groups. Small group employment support must be provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces. The outcome of this service is sustained paid employment and work experience leading to further career development and individual integrated community based employment for which an individual is compensated, at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. Supported employment small group employment supports may be a combination of the following services: vocation/job related discovery or assessment, person center employment planning, job placement, job development, social skills training, negotiation with prospective employers, job analysis, training and systematic instruction, job coaching, benefits supports, training and planning, transportation and career advancements services.

Other workplace support services may include services not specifically related to job skill training that enable the waiver participant to be successful in integrating in to the job setting.

Supported Living: Supported living is support that is very individualized and is provided in a residence that is owned or leased by the waiver member. The amount and type of supports provided are dependent upon what the individual needs to live successfully in the community and must be described in their Plan of Care (ELP) but cannot exceed 40 hours per week for each member. Daily hours of support may vary based on the needs

of the individual. Supported living encourages maximum physical integration into the community and is designed to assist the individual in reaching his or her life goals in a community setting.

The types of supports provided in these settings are tailored supports that provide assistance with acquisition, retention, or improvement in skills related to:

- Activities of daily living, such as personal grooming and cleanliness, domestic chores, or meal preparation, including planning, shopping, cooking, and storage activities;
- Social and adaptive skills necessary for participating in community life, such as building and maintaining interpersonal relationships, including a Circle of Support;
- Locating and scheduling appropriate medical services;
- Instrumental activities of daily living such as learning how to maintain a bank account, conducting banking transactions, managing personal finances in general;
- Learning how to use mass transportation;
- Learning how to select a housemate;
- How to acquire and care for a pet; and
- Learning how to shop.

The individual may want to learn a new skill or may have some proficiency in certain parts of a skill but want to learn how to complete the entire task independently. Supported living must be provided based on the individualized needs of each waiver member and at naturally occurring times for the activity, such as banking and those related to personal care. Supported living is provided on a one-on-one basis. If services are provided with two or more individuals present, the amount of time billed must be prorated based on the number of consumers receiving the service. Payments for Supported Living do not include room and board.

DSHP Demonstration HCBS

The DSHP demonstration offers the following HCBS that will be addressed in the Plan (including excerpts of service definitions from the approved special terms and conditions):

Community Based Residential Alternatives: Community Based Residential Alternative Services offer a cost-effective, community based alternative to nursing facility care for persons who are elderly and/or adults with physical disabilities. This currently includes assisted care living facilities. Support services include personal care and supportive services (homemaker, chore, attendant services, and meal preparation) that are furnished to participants who reside in homelike, non-institutional settings. Assisted living includes a 24-hour onsite response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security. Services also include social and recreational programming, and medication assistance (to the extent permitted under state law). As needed, this service may also include prompting to carry out

desired behaviors and/or to curtail inappropriate behaviors. Services that are provided by third parties must be coordinated with the assisted living provider. Because personal care is a component part of the services provided in assisted living facilities as part of the community based residential service, persons residing in assisted living facilities cannot receive personal care as a separate stand-alone service.

Respite: Respite Care includes services provided to participants unable to care for themselves furnished on a short-term basis because of the absence or need for relief of those persons who normally provide care for the participant. Federal financial participation (FFP) is not claimed for the cost of room and board. This is provided both at home and in nursing and assisted living facilities. This service is limited to no more than fourteen (14) days per year. The MCO may authorize service request exceptions above these limits on a case-by-case basis when it determines that:

- No other service options are available to the member, including services provided through an informal support network;
- The absence of the service would present a significant health and welfare risk to the member; and
- Respite service provided in a nursing home or assisted living facility is not utilized to replace or relocate an individual's primary residence.

Adult Day Services: Services furnished in a non-institutional, community based setting, encompassing both health and social services needed to ensure the optimal functioning of the participant. Meals provided as part of these services shall not constitute a "full nutritional regimen" (three meals per day). Physical, occupational and speech therapies indicated in the individual's plan of care will be furnished as component parts of this service. The service is reimbursed at two levels: the basic rate and the enhanced rate. The enhanced rate is authorized only when staff time is needed to care for participants who demonstrate on-going behavioral patterns that require additional prompting and/or intervention. Such behaviors include those which might result from an acquired brain injury. The behavior and need for intervention must occur at least weekly. This service is not available to persons residing in assisted living.

Day Habilitation: Day Habilitation includes assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that takes place in a non-residential setting, separate from the participant's private residence. Activities and environments are designed to foster the acquisition of skills, appropriate behavior, greater independence, and personal choice. Meals provided as part of these services shall not constitute a "full nutritional regimen" (three meals per day). Day Habilitation services focus on enabling the participant to attain or maintain his or her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies in the service plan. In addition, Day Habilitation Services may serve to reinforce skills or lessons taught in other settings. This service is provided to participants who demonstrate a need based on cognitive, social, and/or behavioral deficits such as

those that may result from an acquired brain injury. This service is not available to persons residing in assisted living.

APPROACH TO DEVELOPING THE STATEWIDE TRANSITION PLAN

In 2014, DMMA initiated a process to re-procure MCOs for the DSHP program. The purpose of this re-procurement was to improve program oversight and administration as well as the quality of services offered to MCO members. This process began in 2013 with the drafting of a new MCO contract. In January 2014, DMMA published the request for proposal and new contracts were implemented January 1, 2015. DMMA conducted an extensive readiness review with the MCOs, which included both desk reviews of policies and procedures and onsite reviews with key MCO staff. Thus, 2014 was a resource-intensive period for DMMA and the MCOs as well as a period of significant transition. As a result, DMMA is at the early stages in its assessment activities related to the Plan.

DDDS has taken a lead role, with support by and coordination with DMMA, focusing on preliminary assessment of the DDDS waiver for compliance with the Community Rule. The results of this preliminary assessment are outlined below in the Plan.

It is important to note that the Plan identifies at a high level the activities and requirements that will be implemented for the DDDS waiver and the DSHP demonstration. For additional insight or intent regarding the Plan and the State's intent, we refer you to the responses to comments received on the Plan at the end of this document.

Moving forward, the specific approach and details surrounding each program will be further defined and will reflect the input and guidance of the particular program's stakeholders, and, as appropriate, will reflect the unique structure and organization of the program itself. As appropriate, the Plan will be revised and submitted to CMS if significant modifications are necessary. Revised versions of the Plan as well as any related materials that will be developed as part of the Plan's implementation will be published, providing additional opportunities for public feedback.

Delaware is committed to engaging with stakeholders and has sought public input from various stakeholders including participants, family members, associations, advocacy groups, and others throughout the process of the Plan development. During the implementation of the Plan, Delaware will continue to seek stakeholder input through a variety of opportunities and venues. Stakeholder input has strengthened the development of the Plan, and will be of critical importance during assessment and remediation.

Additional stakeholder feedback will come from the governing structure for the Plan. For the DDDS portion of the Plan, the Advisory Council to the Division of Developmental Disabilities Services (Advisory Council to DDDS) will serve as the steering committee for feedback in implementing the Plan. Various workgroups will be established by the Advisory Council to DDDS to implement specific tasks. It is our intent that the composition of the work groups will be representative of family members who represent the varying support needs of people within the

DDDS service system and other key stakeholders. Similar to DDDS, DMMA will draw upon the experience and expertise of a stakeholder group, the Governor's Commission on Community Based Alternatives for Individuals with Disabilities (Governor's Commission on CBAID), as the key stakeholder advisory entity during the assessment processes for DSHP.

Although the description below regarding assessment and remediation activities is organized according to program area (DDDS waiver and DSHP demonstration), Delaware is committed to providing a comprehensive, coordinated approach to determining compliance with the Community Rule. This means that where appropriate, processes for the programs, activities and timeframes for the programs will be comparable.

Multiple agencies are involved in administering the State's Medicaid program. As such, a cross-agency team will monitor DMMA's assessment and remediation activities. The team will consist of representatives from DMMA, DDDS, DSAAPD, DSAMH and the Division of Long Term Care Residents Protection (DLTCRP). Other agencies will be included in the process as appropriate and as warranted by specific tasks. The team will meet at a minimum, monthly, but will meet more frequently if necessary depending on the task at hand. Regularly scheduled meetings will enable the team to touch base on key issues, to ensure that tasks remain on track and to develop and implement any necessary course modifications. Updates will be provided to key leadership, including the DHSS Secretary. DDDS will report to DMMA, on a regular frequency, regarding the status of implementing the DDDS waiver portion of the Plan.

Final responsibility for the development and submission of Delaware's Statewide Transition Plan, including meeting the requirements for public notice, rests with DMMA. In the course of implementing the Plan, DMMA will be responsible for any negotiations with CMS regarding any possible changes to the Plan. DMMA will look to the cross-agency oversight body for guidance and direction in these processes.

STATEWIDE TRANSITION PLAN TIMELINE

The following is a high level timeline noting all phases of the Delaware Statewide Transition Plan. Details regarding the activities in each phase and associated timeframes are described later in the Plan.

Activity	Estimated Start Date	Estimated End Date
Preparing and Submitting the Plan for CMS Approval		
1 st Stakeholder meeting for DDDS waiver transition plan.	January 21, 2015	N/A
Incorporate stakeholder feedback into DDDS waiver transition plan.	January 21, 2015	February 5, 2015
2 nd Stakeholder meeting for DDDS waiver transition plan.	January 28, 2015	N/A

Activity	Estimated Start Date	Estimated End Date
Post the Plan for public comment.	February 6, 2015	March 9, 2015
Publish the Plan in newspaper and on DMMA website.	February 6, 2015	N/A
1 st Public Hearing for the Plan (New Castle County).	February 23, 2015	N/A
2 nd Public Hearing for the Plan (Kent County).	February 27, 2015	N/A
Review, incorporate and respond to public comments on the Plan.	March 9, 2015	March 13, 2015
Modify the Plan and post on DMMA website (including summary of public comments and state response).	On or before March 17, 2015	N/A
Submit the Plan to CMS for approval.	On or before March 17, 2015	N/A
Implementing the Plan		
Phase 1: Development of survey instruments and process to assess compliance with Community Rule.	DDDS: February 2015	DDDS: June 2015
	DSHP: April 2015	DSHP: July 2015
Phase 2: Implementation of survey instruments and processes developed in Phase 1 to assess compliance with Community Rule.	DDDS: July 2015	DDDS: December 2015
	DSHP: August 2015	DSHP: January 2016
Phase 3: Use assessment results and other data sources to create inventory of services and settings vis-à-vis compliance with Community Rule.	DDDS: January 2016	DDDS: February 2016
	DSHP: February 2016	DSHP: March 2016
Phase 4: Develop and approve remediation strategies to bring non-compliant services, settings, policies, etc. into compliance with Community Rule.	DDDS: March 2016	DDDS: July 2016
	DSHP: April 2016	DSHP: August 2016
Phase 5: Implement remediation strategies.	DDDS: August 2016	DDDS: March 17, 2019
	DSHP: September 2016	DSHP: March 17, 2019
Phase 6: Monitor on-going compliance.	DDDS: August 2016	DDDS: March 17, 2019
	DSHP: September 2016	DSHP: March 17, 2019

DDDS AND DSHP ASSESSMENT AND REMEDIATION PLANS

This section of the Plan describes the assessment processes to determine compliance with the Community Rule and the remediation actions to address identified issues for the DDDS waiver and the DSHP demonstration. Activities for the DDDS waiver are presented first, followed by activities for the DSHP demonstration. The assessment and remediation activities are described in a sequential manner as “phases.”

This section also includes a matrix for each component of the Plan (DDDS waiver activities and DSHP demonstration activities) that organizes activities by the major categories of the Community Rule requirements.

DDDS Waiver Assessment and Remediation Plan

Phase 1: Development of survey instruments and processes to assess compliance with the Community Rule

Start Date: February 2015

End Date: June 2015

DDDS will work with the Advisory Council to DDDS and any work groups convened by the Advisory Council to DDDS to develop survey instruments and protocols to assess the extent to which the following either: comply with, are contradictory to or are silent on the requirements under the Community Rule:

- State laws, regulations, policies, etc. and provider policies; and
- HCBS and HCB settings.

The Advisory Council to DDDS will create one or more sub-work groups comprised of stakeholders (as enumerated in the matrix that follows) to develop the survey instruments. The CMS Exploratory questions for residential and non-residential settings will be incorporated into the survey instrument.

DDDS intends to create assessment instruments for provider policies regarding HCBS and HCB settings that will be completed by the providers as a self-assessment instrument. The self-assessment instruments must include a place for the provider to document how they meet the Community Rule requirement. For the provider policy assessment, this must take the form of citations and excerpts from written documents maintained by the provider. For the services and settings assessment, the provider must also provide documentation of compliance using such documentation as training curricula or staff performance plans in addition to other relevant documentation.

For the assessment of the services and settings, Delaware has also chosen to utilize data from the National Core Indicators (NCI) data as part of the survey process. The core indicators are standard measures used across states to assess the outcomes of services provided to individuals and families. Indicators address key areas of concern including employment, rights, service planning, community inclusion, choice, and health and safety. This information will be utilized as a starting point, only to allow Delaware and its stakeholders to drill down to those

areas of the community requirement that are of concern. As available, the NCI data will be analyzed by the type of residence in order to identify non-compliance within HCB settings. In addition, the programmatic surveys in Phase 2 will provide a more detailed account of compliance/non-compliance in terms of HCB settings. Training will need to be done on the survey instruments before they can be implemented.

The data obtained from NCI was derived from a random sample of waiver participants across Delaware. A statistically valid sample was obtained and in-person interviews were conducted with the individual to gather information by asking the same questions of all participants. For the analysis of compliance with the HCBS requirements, a total of 280 participants were interviewed in the 2013-2014 reporting year.

Phase 2: Implementation of survey instruments and processes developed in Phase 1 to assess compliance with the Community Rule

Start Date: July 2015

End Date: December 2015

Assessment of State Laws, Regulations, Policies, etc.

The sub-work group of the Advisory Council to DDDS will work with staff of DDDS to administer the survey tool against State laws, regulations, policies, etc. to determine compliance with the Community Rule. A final report will be issued with the findings of the group. The report will indicate for each requirement under the Community Rule whether the State:

- Has sufficient written guidance and processes in place to ensure compliance.
- Has some written guidance and processes in place that must be augmented in order to ensure compliance.
- Has no written guidance or processes in place to ensure compliance.

Copies of the report will be provided to the cross-agency oversight body for review. In addition, copies of the report will be shared with stakeholder groups.

The review process will include the following State, Department and Division documents and related practices, at a minimum:

- Delaware Code
 - Title 16, Chapter 11, Subchapter II. Rights of Patients
 - Title 16, Chapter 55, Subchapter I. Declaration of General and Special Rights of Persons Diagnosed with Intellectual Disabilities and Other Specific Developmental Disabilities
 - Title 25, Part III Landlord/Tenant Code
- Delaware Administrative Code
 - Title 16, DHSS, Section 3000 DLTCRP, 3310 Neighborhood Homes for Persons with Developmental Disabilities (interpretive guidelines)
- Department Policies
 - PM 24 – Safeguarding client funds
 - PM 25 Voter Registration – Federally Funded Programs
 - PM 31 Site Selection for People with Disabilities

- PM 36 Standardized Requirements During the Development Phase of Community Based Residential Homes for the DHSS/Division
 - PM 40 w/ Addendum A: Criminal Background Check
 - PM 46 Policy Memorandum concerning Patient Abuse/Injury/Self Harm, etc.
 - PM 62 Housing/Rent Calculations
- DMAP DDDS Provider Manual (on DMAP website)
- DDDS Waiver Provider Certification Application
- DDDS Waiver Service Provider Qualifications DDDS Waiver Application July 1, 2014 renewal approved by CMS
- DDDS Provider Contracts:
 - Day and Residential Appendix A
 - Residential Appendix A-1
 - Shared living contract Appendix A and related documents
 - Other contract documents
- DDDS standards
 - DDDS Waiver Certification Standards Manual (on DDDS website)
- DDDS manuals
 - A Guide to the Division of Developmental Disabilities Services In Delaware by the Arc of Delaware May 2010
 - Case Manager Desk Manual
 - ELP Manual and Forms (under revision)
 - Nurse Consultant Manual
 - Behavioral Consultant Manual (under revision)
- DDDS policies
 - Community Services
 - “Administrative” Policies (apply across all services)
- DDDS monitoring tools
 - Case Manager monthly contact (in ECR)
 - OQI Survey tool (used in the CSR and also in agency reviews)
- Staff performance plans
 - Senior Social Worker/Case Manager (DDDS Case Managers)
 - Social Worker/Case Manager Supervisor
- Provider lease agreements
- DDDS Provider Lease Approval form

Additional relevant materials may be added to the review as they are identified.

Provider Self-Assessment of Provider Policies and Other Written Guidance

Waiver service providers will complete the self-assessment survey instrument developed in Phase I to assess their level of compliance with the Community Rule. DDDS will develop an acceptable response rate for the self-assessment. In order to increase the provider response rate, a process will be created to follow-up with providers failing to meet requested response timeframes.

Based on the results of the survey, an authorized representative of each provider will attest in writing whether they believe that their organization’s rules and policies are either fully compliant with the Community Rule or that remediation is necessary. Providers that indicate that remediation is necessary will be required to submit a Corrective Action Plan to the State within

30 days of submission of the provider self-assessment. The Corrective Action Plan must be approved by the State before it can be implemented.

The sub-work group of the Advisory Council to DDDS will conduct “look-behind” reviews of a sample of the provider self-assessment survey results to validate the provider self-assessments.

DDDS and DMMA will develop an appeal process for providers to dispute the State’s findings of non-compliance.

Provider Self-Assessment of Waiver Services and Settings

Waiver service providers will complete the self-assessment instrument developed in Phase I to assess their level of compliance with the Community Rule. Providers will need to complete a self-assessment for every site where the provider offers services. Similar to the provider self-assessment of policies and other written guidance process, DDDS will develop an acceptable response rate for the self-assessment instrument. In order to increase the provider response rate, a process will be created to follow-up with providers failing to meet requested response timeframes.

Based on the results of the survey, an authorized representative of each provider will attest in writing whether they believe that their organization settings are either fully compliant with the Community Rule or that remediation is necessary. Providers that indicate that remediation is necessary will be required to submit a Corrective Action Plan to the State within 30 days of submission of the provider-self assessment. The Corrective Action Plan must be approved by the State before it can be implemented.

The sub-work group of the Advisory Council to DDDS will conduct “look-behind” reviews of a sample of the provider self-assessment survey results to validate the provider self-assessments. Look-behind reviews will include onsite visits. The Advisory Council to DDDS will assist in developing the methodology for the look-behind reviews, including sample composition and the process for onsite visits. The DDDS and DMMA will ensure that all review processes are conflict free and will develop dispute resolution processes for the findings.

Information obtained from the analysis of the NCI data will supplement data gathered from the provider self-assessments of the services and settings and the look-behind reviews.

Provider settings that will be reviewed for compliance as part of this process include:

- Neighborhood group homes;
- Community living arrangements (aka staffed apartments);
- Shared living arrangements;
- Day habilitation facilities and non-facility-based programs;
- Prevocational facilities and non-facility based programs;
- Supported Employment providers; and
- Supported Living providers.

Any assessment results that indicate approved deviations from the requirements under the Community Rule for specific waiver members must be supported by the individual needs of the

waiver member as specified in the person-centered plan. Where deviation is recommended, the following standard must be met:

- Identification of a specific condition or individualized need that is directly proportionate to the deviation being recommended;
- Documentation of positive interventions and supports tried prior to the recommended deviation from the requirements, including less intrusive methods of meeting the need that were tried and did not work;
- Ongoing periodic review to measure the effectiveness of the deviation from standard practice;
- Establishment of a timeframe within which the deviation should be discontinued if it is no longer needed or effective;
- An assurance that the interventions and supports will cause no harm to the individual; and
- Informed consent of the individual or legal representative (see 42 CFR §441.301(c)(2)(xiii)(G)).

DMMA and DDDS will develop an appeal process for providers to dispute the State's findings of non-compliance.

Phase 3: Use assessment results and other data sources to finalize inventory of services and settings vis-à-vis compliance with the Community Rule

Start Date: January 2016

End Date: February 2016

DDDS will create an inventory of all waiver settings, both residential and non-residential, and each setting will be initially identified as either 1) not compliant, 2) presumed not to be compliant, 3) likely not to be compliant, or 4) fully compliant, the latter two of which will be based on the results of the provider self-assessments and the look-behind reviews conducted by the Advisory Council to DDDS sub-work group. The inventory will summarize how each setting meets or does not meet the federal HCBS requirements.

Settings PRESUMED NOT to be Compliant

DDDS will identify specific settings, both residential and non-residential, that are PRESUMED NOT to be HCBS compliant because they are on grounds of, or adjacent to, a public institution, i.e., Stockley Center, they are in a publicly or privately-owned facility providing inpatient treatment or they have the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS. This review will include residential and non-residential settings out of state for which waiver funds are currently being used. This review will be conducted by DDDS staff prior to the completion of the provider self-assessment by those agencies.

All Other Settings

DDDS staff will use the results of the following data sources to populate the inventory with the initial compliance status as outlined above:

- Provider self-assessments; and
- Look-behind reviews conducted by the Advisory Council to DDDS sub-work group.

An appeal process will be developed for providers to dispute the State's findings of non-compliance.

Phase 4: Develop remediation strategies to bring non-compliant services, settings policies, etc. into compliance with the Community Rule

Start Date: March 2016

End Date: July 2016

Based on the inventory of Delaware HCBS residential and non-residential settings, remediation will need to be developed for any services or settings that are determined to not meet the federal HCBS requirements. Providers for which remediation is necessary will be required to submit a Corrective Action Plan to the State within 30 days of submission of the provider self-assessment. The Corrective Action Plan must be approved by the State before it can be implemented.

To the extent that remediation strategies have financial implications for the providers and for the State, budget strategies may need to be developed by the State.

Phase 5: Implement remediation strategies

Start Date: August 2016

End Date: March 17, 2019

Any Corrective Action Plans and other remediation strategies identified in Phase 4 must be fully implemented by March 17, 2019 so that the entire waiver service delivery system will be compliant with the Community Rule.

The State will ensure that throughout the remediation phase, measures will be put in place to continuously monitoring participant health and welfare and the quality of care. State staff and stakeholders will be engaged in this activity.

In the event that a provider is initially determined not to meet all appropriate HCBS requirements, participants will have the choice of continuing to receive services from the provider while the provider implements corrective action to bring the setting into compliance. Relocation processes will be tailored to each individual with full participation of the individual and his/her family/caregiver. DDDS will work with the individual and his/her family/caregiver and provider (existing and new), etc. to develop a smooth transition process that will ensure continuity of care and protect the health and welfare of the individual throughout the process. The individual's plan of care will be updated accordingly.

Phase 6: Monitor on-going compliance

Start Date: August 2016

End Date: March 17, 2019

The DDDS Office of Quality Improvement will monitor progress on Corrective Action Plans and will also begin routine monitoring of compliance with the requirements of the Community Rule during the Transition period for providers for whom no Corrective Action Plan is in effect.

Matrix of DDDS Waiver Action Items Organized by Major Categories of the Requirements of the Community Rule

This section of the Plan organizes the activities for the DDDS waiver by the major categories of requirements under the Community Rule:

- Broad Stakeholder Involvement in the Development of the Plan.
- Policy/procedure /provider qualification standards review.
- Evaluate individual HCB settings.
- Evaluate waiver service definitions against the Community Rule.
- Training for State staff and providers (including on-going monitoring and remediation).
- On-going monitoring by OQI.

DDDS Transition Plan Elements Organized by Community Rule Compliance Area

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Section 1: Broad Stakeholder Involvement in the Development of the Transition Plan				
Schedule meetings to solicit stakeholder input in the development of a draft Transition Plan via focus group meetings.	DDDS Director's Office Administrative Support		Completed	
<p>Hold focus group meetings to solicit stakeholder & public input into the development of the Transition Plan.</p> <p>Provide an overview of the Community Rule and solicit input into the development of the draft DDDS Transition Plan.</p> <p>DDDS will use a transcription service to facilitate ability to capture all comments.</p>	DDDS Director DDDS Deputy Director DDDS Director of Quality Improvement DDDS Director of Day & Transition Services	<p>Stakeholders participating include:</p> <p>DD Council SCPD State Ombudsman GACEC Advisory Council to DDDS Arc of DE DELARF People First (self-advocates) Disabilities Law Program DE Family Voices Waiver Providers Families of individuals receiving DDDS waiver services & other DDDS services MCAC (briefed at their meeting on 12/10/14) Ask Advocacy orgs to get the word out to families to encourage participation in the public meetings scheduled by DMMA for February</p>	Completed	

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Publish a draft DDDS transition plan on the DDDS website for public comment with link to email address for comments.	DDDS Staff DHSS IRM Helpdesk to establish email Resource account DDDS provider and family listservs (make sure this includes Autism Speaks & the Downs Syndrome Assn)	Explore Facebook, Twitter, WDEL Consider translating the Plan into Spanish	To be published DDDS website by 2/6/15 - Completed	3/9/15 for the initial draft- Completed
Review, incorporate and respond to public comments on the draft DDDS Transition Plan Summarize the comments received and the frequency for each type of comment and post the comments and how they were used in the draft DDDS Transition Plan.	DDDS Staff		Completed	
Create a "parking lot" of any issues that come up during the development or implementation of the DDDS transition plan that are outside of the scope of the Plan.	DDDS Staff		1/27/15	On-going
Update the status of the CMS-approved DDDS section of the transition plan on the DDDS website on a specified frequency (monthly) to enable the public to follow the status of the Plan.	DDDS Staff		4/1/15	When DDDS services are fully compliant
Provide DDDS section of the transition plan to DMMA for inclusion in the Plan to be posted for public comment.	DDDS Staff		Completed	
Section 2: Policy/Procedure/Provider Qualification Standards Review				
Establish oversight body to monitor the DDDS waiver section of the DDDS transition plan to apply a cohesive strategy to compliance with the Community Rule. The Advisory Council to DDDS will serve as the Steering Committee for the DDDS transition process.		Stakeholders at the 1/21 and 1/28/15 focus groups	Completed	

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Advisory Council to DDDS to create charter to define their role and that of the sub-work group and protocols for how they will operate (i.e., reporting structures & timeframes).	DDDS Staff	Advisory Council to DDDS	2/17/15	3/17/15
Form one or more sub-work groups of the Advisory Council to DDDS consisting of DDDS staff and stakeholders to assist DDDS in the process of reviewing its policies and procedures. This will spread workload among one or more work groups.	DDDS Staff	Advisory Council to DDDS	2/17/15	3/31/15
Identify HUD Homes and any financial or other terms that impact compliance.	Debbie Gottschalk (DHSS legislative liaison and lawyer) Lottie Lee (DHSS Housing Coordinator)	Arc of Delaware Property Manager	2/17/15	4/30/15
Conduct review of Delaware landlord/tenant code vis-à-vis the Rule.	Debbie Gottschalk (DHSS legislative liaison and lawyer) Delaware Housing Authority	Advisory Council to DDDS	2/17/15	4/30/15
Develop survey instrument to use to assess for DDDS and provider (self-assessment) policies, procedures, etc. against the Rule.	DDDS Deputy Director DDDS Director of Policy DDDS Director of Quality Improvement	Advisory Council to DDDS sub-work group; research should be conducted on tools that other states may have already developed	3/17/15	5/31/15
Use survey tool to assess for DDDS policies, procedures, etc. against the Rule to determine whether DDDS policies, etc. are compliant with the Rule or whether there are gaps.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Policy	Advisory Council to DDDS sub-work group	7/1/15	12/31/15
Analyze DDDS waiver provider qualification standards and internal procedures to determine compliance with the Rule or whether there are gaps.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Professional Services	Advisory Council to DDDS sub-work group	7/1/15	12/31/15

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Present survey instrument to providers and train them how to use it.	DDDS Office of Quality Improvement	Advisory Council to DDDS sub-work group Provider representatives	6/1/15	6/30/15
Providers use the survey tool to assess their policies, procedures, etc. against the Rule. Providers develop/submit Corrective Action Plan (CAP) to correct non-compliant policies, etc. DDDS must approve the CAP within 30 days of submission to DDDS.		DDDS providers, DDDS	7/1/15	12/31/15
Desk review of provider self-assessment results re: their policies/procedures.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Professional Services	Advisory Council to DDDS sub-work group will assist DDDS in reviewing provider self-assessments	8/1/15	12/31/15
Conduct a full "look-behind" review of a 20% sample of the provider self-assessments of their policies & procedures.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Policy	Advisory Council to DDDS sub-work group	11/1/15	2/28/16
Provide feedback to providers regarding their level of compliance based on the survey results.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Policy	Advisory Council to the Division of Developmental Disabilities Services sub-work group	9/1/15	2/28/16
Use NCI data to determine whether the service delivery system is achieving the desired client outcomes.	DDDS Director of Quality Improvement to work with HSRI to get NCI data for Delaware		3/1/16	6/1/16

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
DDDS must develop remediation strategies for any state policies, laws, regulations, etc. that are not compliant.	DDDS Director DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Policy DE Division of Long Term Care Residents Protection DLTCRP (as necessary to make regulatory changes)	Advisory Council to DDDS sub-work group	1/1/16	6/30/16
Advisory Council to DDDS will review and must approve any DDDS strategies for remediation.		Advisory Council to DDDS	7/1/16	7/31/16
Remediation:				
Create explanation in plain language of tenant rights to be given to all waiver members that reside in provider-owned or leased properties.	Debbie Gottschalk (DHSS legislative liaison and lawyer) DDDS staff	Advisory Council to DDDS	5/1/15	6/30/15
Make necessary changes to Division policies, procedures, laws, regulations, etc.	DDDS Staff		8/1/16	10/31/16
Make necessary changes to DDDS Provider qualification criteria, form and practices.	DDDS Staff		8/1/16	10/31/16
Make necessary changes to state or DHSS policies, procedures, laws, regulations, etc.	DDDS staff DE Division of Long Term Care Residents Protection DLTCRP (as necessary to make regulatory changes)	Public input will be sought for regulatory changes via the Delaware Register of Regulations	8/1/16	1/31/17 *Any changes requiring legislative action must be taken by 3/17/19.
Providers must make changes to any non-compliant policies, etc. DDDS must approve changes.		Providers	9/1/15	6/30/16
Submit necessary changes to the DDDS HCBS waiver application to CMS to communicate and enforce expectations re: the Rule.	DDDS Staff	Public input will be sought for changes to the waiver via established protocols CMS	After the Plan is approved	6 months after CMS approval

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Section 3: Evaluate Individual HCB Settings				
Identify residential sites covered under the waiver that are PRESUMED NOT to be community based.	DDDS Director DDDS Deputy Director	Advisory Council to DDDS sub-work group will assist DDDS	4/1/15	4/30/15
Identify residential sites (including out of state) paid for with waiver funds that are likely to NOT be community based even without performing a full assessment.	DDDS Director DDDS Deputy Director DDDS Director of Professional Services	Advisory Council to DDDS sub-work group will assist DDDS	4/1/15	4/30/15
Develop a provider self-assessment tool for residential providers/sites.		Advisory Council to DDDS will serve as the Steering Committee and will create sub-work groups as necessary to assist DDDS in the development of the survey instrument; research should be conducted on tools that other states may have already developed	2/17/15	6/30/15
Develop a provider self-assessment tool for non-residential providers/sites.	DDDS Office of Quality Improvement DDDS Administrative Support	Advisory Council to DDDS will serve as the Steering Committee and will create sub-work groups as necessary to assist DDDS in the development of the survey instrument; research should be conducted on tools that other states may have already developed	2/17/15	6/30/15
Do a pilot with three residential and day programs (including one state day site) each to work out the bugs of the survey instrument.			5/1/15	6/1/15

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Analyze results of pilot and make corrections to the survey instrument and develop a training curriculum.			6/1/15	7/1/15
Present policy self-assessment survey tool to providers & train on its use.			7/1/15	8/1/15
Application of the provider self-assessment tool for each site.		DDDS Providers	8/1/15	12/31/15
State desk reviews of provider self-assessments.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Regional Program Directors DDDS Director of Day & Transition Services	Advisory Council to DDDS sub-work group	9/1/15	1/30/16
Conduct onsite "look-behind" review of a 20% sample of providers using the review tool.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Regional Program Directors DDDS Director of Day & Transition Services	Advisory Council to DDDS sub-work group, supplemented with additional advocates as necessary to meet workload	1/1/16	2/28/16
Conduct a full review of provider settings for all providers not reviewed as part of the compliance above at the next provider QA review.	DDDS Office of Quality Improvement		First review date after 7/1/16	Ongoing on provider review annual anniversary date
Remediation:				
Transition Waiver members off the Stockley grounds. Families are in the process of selecting a provider.	DDDS Staff	Providers	6/1/14	1/31/16

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Provider development and submission of Corrective Action Plans. Corrective Action Plans must be approved by DDDS.		Providers		Within 30 days of the submission of the self-assessment
Review DDDS rates for adequacy to support the requirements of the Rule (especially related to smaller staffing ratios in the day programs).	DDDS Staff		7/31/16	9/30/16
Include a budget strategy related to any necessary changes to rates.	DDDS Staff		Prepare for FY18 budget	
Develop a policy regarding aging in place.	DDDS Staff		8/1/15	11/1/16
Section 4: Evaluate Waiver Service Definitions Against the Community Rule				
Evaluate current service definitions against the new requirements.	DDDS Office of Quality Improvement DDDS Deputy Director DDDS Director of Community Services DDDS Director of Day & Transition Services	Advisory Council to DDDS sub-work group	7/1/15	9/30/15
Remediation:				
Develop a waiver amendment to revise any service definitions as necessary. Any waiver amendment will be submitted to CMS by DMMA.	DDDS Staff DMMA (must review and approve changes)	Public input will be sought for changes to the waiver via established protocols	10/1/15	12/31/15
Revise the DMAP Provider manual for changes to waiver service definitions as necessary.	DDDS Staff DMMA (must review and approve changes)		After approval or amendment by CMS	
Amend the DDDS waiver to add "Community Participation." Any waiver amendment will be submitted to CMS by DMMA. Add this new fully compliant day service to the menu of waiver services to encourage members to transition naturally.	DDDS Staff DMMA (must review and approve changes)	Public input will be sought for changes to the waiver via established protocols CMS	FY17	

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Section 5: Training for State Staff and Providers				
Evaluate current DDDS-required training curriculum against the Rule.	DDDS Staff	Advisory Council to DDDS sub-work group	2/1/15	3/31/15
Determine if the College of Direct Support curriculum has been vetted against the Rule by CMS. The DDDS Director of Quality Improvement will work with Elsevier to make this determination.	DDDS Director of Quality Improvement	Elsevier	2/1/15	3/31/15
Remediation:				
Change DDDS policy regarding training curriculum. Add or delete CDS modules that will facilitate staff and provider compliance with the Rule. Work with Elsevier to add new modules as necessary.	DDDS Staff DDDS Director of Quality Improvement DDDS Policy Administrator	Elsevier	4/1/15	6/30/15
Implement new curriculum.	DDDS Director of Professional Development	Providers	7/1/15	6/30/16
Add QA measure's in the waiver application specific to the Community Rule.	DDDS Director of Quality Improvement DMMA (must review and approve changes)	CMS	1/1/16	
Develop new provider standards.	DDDS Director of Quality Improvement		2/3/15	4/31/16
Develop new monitoring tools for OQI.	DDDS Director of Quality Improvement		5/1/16	6/30/16

DSHP Demonstration Assessment and Remediation Plan***Phase 1: Development of survey instruments and processes to assess compliance with the Community Rule******Start Date: April 2015******End Date: July 2015***

DMMA will develop assessment tools to facilitate DMMA evaluation of State laws, regulations, policies, provider review of policies as well as assessment of HCBS and HCB settings that are under the DSHP demonstration. The CMS Exploratory questions for residential and non-residential settings will be incorporated into the survey instrument. To the extent possible, DMMA will leverage the approach and tools designed for the DDDS waiver. DMMA intends to use the same or a similar review instrument as DDDS to facilitate its review of any State laws, regulations, and policies particular to the DSHP Demonstration. The provider survey will take the form of a self-assessment.

DMMA will also work with the DSHP MCOs to design a survey instrument that the MCOs will use to assess their own policies, procedures, provider participation agreements, credentialing and re-credentialing standards, and other materials to ensure that there is nothing that would serve as a deterrent to fully integrated community care or is in contrast to the Community Rule. DMMA will work with the MCOs to identify the relevant policies that need to be reviewed and will establish criteria defining the parameters of the review, including what the review should entail and the timeframes for completion.

DMMA intends to develop the settings and services survey instruments for the DSHP demonstration using a 360-degree approach, obtaining feedback from both providers and participants receiving care as a means of validation. Requirements from the Community Rule and exploratory questions from the CMS toolkit will be used to help develop the surveys. The surveys will be modified, as appropriate, according to the provider and setting.

DMMA will consider using its External Quality Review Organization (EQRO) to develop the surveys. This task appears to be consistent with the validation and implementation survey protocols outlined in the CMS External Quality Review Protocols.

Regardless of the method used to develop the surveys, the tools will be reviewed by a broad range of stakeholders, including the DSHP MCOs and the cross-agency oversight body and the Governor's Commission on CBAID, prior to finalizing and distributing to providers and participants.

Phase 2: Implementation of survey instruments and processes developed in Phase 1 to assess compliance with the Community Rule***Start Date: August 2015******End Date: January 2016******Assessment of State Laws, Regulations, Policies, etc.***

In Phase II, DMMA will also undertake a review of applicable State laws, regulations and policies to determine compliance with the Community Rule. Many of the laws, regulations and

policies that will be reviewed for the DDDS waiver will also fall under DMMA's review for the DSHP demonstration because they apply to both programs. Input will be sought from stakeholders, including the cross-agency oversight body and the Governor's Commission on CBAID, to determine any additional state laws, regulations and policies. The review process will include the following State, Department and Division documents and related practices, at a minimum:

- Delaware Code
 - Title 16, Chapter 1 - DHSS (licensure and certification)
 - Title 16, Chapter 11 - Nursing Facilities and Similar Facilities (Licensure by the State)
 - Title 16, Chapter 94 – Community Based Attendant Services
 - Title 24, Chapter 17 - Medical Practice Act (Medical Licensure and Discipline)
 - Title 25, Part III - Residential Landlord-Tenant Code
 - Title 31, Chapter 1 - DHSS (department authority)
 - Title 31, Chapter 5, Sections 503(b) and 505(3) - State Public Assistance Code (Medical Assistance)
- Delaware Administrative Code
 - Medicaid DSSM 20000 - Long Term Care (Home and Community Based Services)
 - Division of Long Term Care Residents Protection, various sections addressing licensure and certification of group home, assisted living facilities, etc.
 - Division of Public Health, Health Systems Protections, various sections addressing regulations and licensure of adult care facilities, home health agencies and aides
 - DSAMH: Sections 6001 and 6002 - Licensing Standards and Credentialing
- Other Policy Documents
 - Analyze current 1115 Special Terms and Conditions and MCO contracts to determine if revisions to program rules/policies and if amendments are needed to be in compliance with the Community Rule
 - Review of provider manual(s), including contracts/licensure provisions, to determine if revisions/updates are needed to be in compliance with the CFRs

Additional materials will be added to the review as they are identified. Similar to the DDDS waiver, a final report will be developed noting the extent to which for each requirement under the Community Rule the state has or does not have sufficient written guidance and processes to ensure compliance. Copies of the report will be provided to the cross-agency oversight body for review. In addition, copies of the report will be shared with stakeholder groups.

MCO Self-Assessment of MCO Policies, etc.

The DSHP MCOs will use a tool developed in collaboration with DMMA to assess their own policies and procedures for compliance with the Community Rule. Prior to the review, DMMA will provide training to MCO staff on the elements of the Community Rule to ensure the MCOs have a solid understanding of the Rule and expectations when conducting their review. DMMA will monitor the MCO's review for completeness and timeliness within established parameters and deadlines. Upon finishing their review, the MCOs will submit a final report to DMMA that details their findings.

Provider Self-Assessment of Provider Policies and Other Written Guidance and Provider Self-Assessment of HCB Services and Settings

MCOs will play an important role in the survey process. DMMA will distribute the provider self-assessments to the DSHP MCOs for distribution to DSHP HCBS providers. MCO provider network lists will need to be coordinated in order to eliminate duplication. MCOs will distribute surveys to providers in accordance with prescribed parameters and timeframes.

The MCOs will develop and distribute educational materials for providers regarding the Community Rule and the self-assessment process. MCOs will also conduct provider training. MCO educational and training materials will be reviewed by DMMA and developed in accordance with specific criteria and with stakeholder feedback.

For the provider self-assessment of HCB services and settings, a help desk will be established to respond to provider questions about the survey and offer technical assistance to providers in completing the survey. This technical assistance will help troubleshoot problems in order to improve the accuracy of the self-assessment results.

DMMA will develop an acceptable response rate for the provider self-assessment. In order to increase the provider response rate, a process will be created to follow-up with providers failing to meet requested response timeframes. DMMA will also consider additional measures to increase the provider response rate such as the need for provider incentives.

The Governor's Commission on CBAID will assist in conducting look-behind reviews of an appropriate sample of the providers who completed the self-assessment survey to validate the provider self-assessments. Look-behind reviews will include onsite visits. The Governor's Commission on CBAID will assist in developing the methodology for the look-behind reviews and the process for onsite visits.

Participant Survey

DMMA will work with the MCOs to use the MCO DSHP-Plus case managers to assist participants in responding to the participant survey. The MCOs will distribute the surveys directly to participants, with instructions that the participant's case manager is available to assist if needed. Case managers will also be instructed to reach out to the participant during monitoring contacts to see whether the participant needs assistance with the survey and will follow up with participants regarding the status of completing surveys. DMMA will develop criteria in collaboration with the MCOs regarding the case manager's role in assisting the participant with the survey. The role of the MCO case manager is to facilitate the participant's completion of the survey, not to complete the survey instead of the participant.

In addition, DMMA will develop a valid sample response for case managers to help them understand what a complete survey should look like. The MCOs will be expected to train their case managers on the Community Rule, the participant assessment process, and their role as case managers, prior to distributing the survey to participants. DMMA and the cross-agency oversight body will review and approve the MCO's educational materials before the training occurs.

A system will be developed and implemented to collect, track, monitor and analyze surveys and responses. A help desk will be established to respond to case manager inquiries regarding the survey.

Phase 3: Use assessment results and other data sources to finalize inventory of services and settings vis-à-vis compliance with the Community Rule

Start Date: February 2016

End Date: March 2016

An approach comparable to that described for the DDDS waiver will be used for the non-residential and residential HCB settings inventory. The results of the following data sources will be used to populate the inventory:

- Provider self-assessments;
- Participant survey; and
- MCOs policy assessment.

Phase 4: Develop remediation strategies to bring non-compliant services, settings, policies, etc. into compliance with the Community Rule

Start Date: April 2016

End Date: August 2016

Remediation activities may occur at multiple levels: state, MCO and provider.

State level remediation activities may include but are not limited to:

- Revising state policies, laws, regulations;
- Developing new state policies, laws, regulations;
- Streamlining state operational and administrative processes; and
- Develop budget strategies to fund remediation as necessary.

There may be issues stemming from the inventory that will impact MCOs particularly in the event that issues are identified from the MCO assessment. MCO remediation measures may include but are not limited to:

- Corrective Action Plans;
- Revised MCO contract;
- Revised MCO policies; and
- Required revisions to MCO provider participation agreements.

Provider level remediation activities may include but are not limited to:

- Modifications to ensure greater participant choice and control; and
- Relocation of participants in the event a setting is unable to meet requirements.

Phase 5: Implement remediation strategies**Start Date: September 2016****End Date: March 17, 2019**

Any Corrective Action Plans and other remediation strategies identified in Phase 4 must be approved by DMMA and fully implemented by March 17, 2019 so that the entire HCB service delivery system will be compliant with the Community Rule.

The State will ensure that throughout the remediation phase, measures will be put in place to continuously monitoring participant health and welfare and the quality of care. Case managers, MCOs, State staff and stakeholders will be engaged in this activity.

As noted previously for the DDDS waiver, in the event that a provider is initially determined not to meet all appropriate HCBS requirements, participants will have the choice of continuing to receive services from the provider while the provider implements corrective action to bring the setting into compliance. Relocation processes will be tailored to each individual with full participation of the individual and his/her family/caregiver. MCOs will be held accountable to work with the individual and his/her family/caregiver and provider (existing and new), etc. to develop a smooth transition process that will ensure continuity of care and protect the health and welfare of the participant throughout the process. The individual's plan of care will be updated accordingly.

Phase 6: Monitor on-going compliance**Start Date: September 2016****End Date: March 17, 2019**

Compliance monitoring may also include monitoring MCO performance. Activities such as analysis of MCO reports, analysis of provider appeals, analysis of MCO member requests for fair hearings, monitoring participant complaints and additional stakeholder meetings will be considered for monitoring activities.

Matrix of DSHP Demonstration Action Items Organized by Major Categories of the Requirements of the Community Rule

This section of the Plan organizes the activities for the DSHP demonstration by the major categories of requirements under the Community Rule:

- Broad Stakeholder Involvement in the Development of the Plan.
- Policy/procedure /provider qualification standards review.
- Evaluate individual HCB settings.
- Evaluate HCB service definitions against the Community Rule.
- Training for State staff and providers.
- On-going monitoring.

DSHP Transition Plan Elements Organized by Community Rule Compliance Area

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Section 1: Broad Stakeholder Involvement in the Development of the Transition Plan				
Convene the cross-agency oversight body.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative		Completed	
Hold meetings of the cross-agency oversight body. Initial agenda topics include: providing an overview of the Community Rule and soliciting input into the approach for development of the draft Statewide Transition Plan.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative		January 2015	On-going
Provide copy of draft Statewide Transition Plan to DHHS Secretary's office for review to ensure alignment with broader Delaware HCBS goals and objectives.	DMMA, DHSS Secretary's office		Completed	
Publish Statewide Transition Plan for public comment (newspaper and DMMA website).	DMMA	Newspaper, DMMA website Explore translation into Spanish	2/6/15	2/6/15

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Public Hearing (New Castle County).	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers	2/23/15	2/23/15
Public Hearing (Kent County).	DMMA	Broad range of stakeholders will be invited to participate including but not limited to: Delaware Association of Homes and Services for the Aging Nursing Home Residents Quality Commission Easter Seals Legal Services United Way of Delaware Eldercare Individual providers	2/27/15	2/27/15
Review, incorporate and respond to public comments on the draft Statewide Transition Plan. Summarize the comments received and the frequency for each type of comment. Post the comments and how they were used in the draft Statewide Transition Plan.	DMMA		Completed	

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Create a "parking lot" of any issues that come up during the development or implementation of the Statewide Transition Plan that are outside of the scope of the Plan.	DMMA		3/9/15	On-going
Update the status of the CMS-approved Statewide Transition Plan on the DMMA website.	DMMA		CMS approval of Plan	On-going
Section 2: Policy/Procedure/Provider Qualification Standards Review				
Establish oversight body to monitor the assessment process.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative		Completed	
Establish the Governor's Commission on CBAID as an advisory body for the assessment process.	DMMA	Governor's Commission on CBAID	2/23/15	2/23/15
Governor's Commission on CBAID to create charter to define their role and protocols for how they will operate (i.e., reporting structures & timeframes).	DMMA	Governor's Commission on CBAID	2/23/15	3/20/15
Identify HUD Homes and any financial or other terms that impact compliance.	Debbie Gottschalk (DHSS legislative liaison and lawyer) Lottie Lee (DHSS Housing Coordinator) DLTCRP	Delaware Healthcare Facilities Association	2/23/15	4/3/15
Conduct review of Delaware landlord/tenant code vis-à-vis the Rule.	Debbie Gottschalk (DHSS legislative liaison and lawyer) Delaware Housing Authority	Delaware Healthcare Facilities Association	2/23/15	4/3/15

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Develop survey instruments for providers to self-assess their policies, procedures, etc. against the Rule. Develop tool to assess State laws, regulations, codes, policies, etc. for compliance with the Rule. Work with DSHP MCOs to develop tool for MCOs to review compliance of their policies and procedures with the Rule.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID; research should be conducted on tools that other states may have already developed	4/1/15	7/31/15
Use survey tool to assess State policies, procedures, etc. against the Rule to determine whether policies, etc. are compliant with the Rule or whether there are gaps. Develop inventory of results.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	8/1/15	1/31/16
Present MCO policy and procedure survey tool to MCOs and provide training to MCO staff on the requirements of the Rule and on the assessment process.	DMMA	Governor's Commission on CBAID	8/1/15	8/15/15
MCOs train providers on how to use survey tool.	DMMA	MCOs Providers	8/15/15	9/1/15
Providers use the survey tool to assess their policies, procedures, etc. against the Rule. Providers develop/submit Corrective Action Plan (CAP) to correct non-compliant policies, etc. DMMA must approve the CAP within 30 days of submission to DDDS.	DMMA	Providers	9/1/15	1/1/16
MCOs review their policies and internal procedures to determine compliance with the Community; As part of the self-assessment response, providers will be required to submit a corrective action plan for any policies or procedures deemed not to be fully compliant.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	8/1/15	1/1/16
Conduct review of MCO self-assessment results re: their policies/procedures and remediation strategies.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	9/1/15	1/31/16

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Desk review of provider self-assessment results re: their policies/procedures and remediation strategies.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	2/1/16	3/1/16
Conduct a full "look-behind" review of a sample of the provider self-assessments of their policies & procedures.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	3/1/16	3/31/16
DMMA will develop remediation strategies for any state laws, regulations, policies, etc. that are found not fully compliant.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative; MCOs	Governor's Commission on CBAID	4/1/16	7/31/16
Governor's Commission on CBAID will review and provide feedback on any DMMA strategies for remediation.		Governor's Commission on CBAID	8/1/16	8/31/16
Remediation:				
Create explanation in plain language of tenant rights to be given to all HCBS members that reside in provider-owned or leased properties.	Debbie Gottschalk (DHSS legislative liaison and lawyer) DDDS staff	Governor's Commission on CBAID	5/1/15	6/30/15
MCOs make any necessary changes to any non-compliant policies (must be reviewed and approved by DMMA).	DMMA	MCOs	9/1/16	11/30/16
DMMA makes any necessary changes to MCO contracts.	DMMA	MCOs	9/1/16	11/30/16

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
State makes and necessary changes to State policies, procedures, laws, regulations, etc.	Appropriate state agency	Public input will be sought for regulatory changes via the Delaware Register of Regulations	9/1/16	1/31/17 *Any changes requiring legislative action must be taken by 3/17/19
Providers make any changes to any non-compliant policies, procedures, laws, regulations, etc. Changes must be approved by DMMA.		Providers	9/1/15	6/30/16
Section 3: Evaluate Individual HCB Settings				
Identify residential sites covered under HCBS that are PRESUMED NOT to be community based (e.g., Stockley).	DMMA	Governor's Commission on CBAID will assist DMMA	4/1/15	4/30/15
Identify residential sites (including out of state) paid for with DSHP/demonstration funds that are LIKELY NOT to be community based.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID will assist DMMA	4/1/15	4/30/15
Develop a provider self –assessment tool for residential providers/sites.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	DMMA will look to see if the EQRO can assist in this task with feedback from the Governor's Commission on Community Based Alternatives for Individuals; research should be conducted on tools that other states may have already developed	4/1/15	7/31/15

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Develop a provider self-assessment tool for non-residential providers/sites.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	DMMA will look to see if the EQRO can assist in this task with feedback from the Governor's Commission on Community Based Alternatives for Individuals; research should be conducted on tools that other states may have already developed	4/1/15	7/31/15
Do a pilot with selected providers to work out the bugs of the survey instrument.	DMMA	Providers	6/1/15	7/1/15
Analyze results of pilot and make corrections to the survey instrument and develop a training curriculum.	DMMA		7/1/15	7/31/15
Develop a participant survey tool.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	DMMA will look to see if the EQRO can assist in this task with feedback from the Governor's Commission on Community Based Alternatives for Individuals; research should be conducted on tools that other states may have already developed	4/1/15	7/31/15
Train MCOs and MCO case managers on how to use the participant survey.	DMMA	MCOs Case managers	8/1/15	8/31/15
Train MCOs on provider self-assessment.	DMMA	MCOs	8/1/15	8/15/15
MCOs train providers on the provider self-assessment.	DMMA	MCOs Providers	8/15/15	9/1/15
Implementation of assessment: Residential and non-residential providers take the self-assessment,	MCOs Case managers		9/1/15	1/1/16

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
and MCO case managers assist participants with the participant survey.				
Conduct onsite look-behind review of a 20% sample of providers using the tool.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	EQRO if contracted for work; Governor's Commission on CBAID	10/1/15	1/31/16
Collect, analyze and evaluate provider self-assessment and participant survey responses and develop report.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	EQRO if contracted for work; Governor's Commission on CBAID	2/1/16	3/31/16
Share report with stakeholders.		Convene stakeholder meetings to discuss results	3/31/16	3/31/16
Remediation:				
Transition DSHP participants off the Stockley grounds. Families are in the process of selecting an alternative provider.	DMMA	MCOs Providers	6/1/14	1/31/16
Provider and MCO development and implementation of Corrective Action Plans to bring care settings into compliance with the Rule, with monitoring from DMMA. Corrective Action Plans must be approved by DMMA.	DMMA	MCOs Providers		Within 30 days of the submission of the self-assessment
Review rates for adequacy to support the requirements of the Rule (especially related to smaller staffing ratios in the day programs).	DMMA		7/31/16	9/30/16
Include a budget strategy related to any necessary changes to rates.	DMMA		Prepare for FY18 budget	
Develop a policy regarding aging in place.	DMMA	Governor's Commission on CBAID	8/1/15	11/1/16

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Section 4: Evaluate HCB Service Definitions Against the Community Rule				
Evaluate current service definitions against the requirements of the Community Rule.	DMMA, DSAAPD representative, DDDS representative, DSAMH representative, DLTCRP representative	Governor's Commission on CBAID	8/1/15	9/30/15
Remediation:				
As necessary, develop a demonstration amendment to revise any service definitions and submit amendment to CMS. Work with CMS toward approval of the amendment.	DMMA	Public input will be sought for changes to the waiver via established protocols	10/1/15	12/31/15
Revise the DMAP provider manual for changes to waiver service definitions as necessary.	DMMA		After approval by CMS	
Section 5: Training for State Staff and Providers				
Evaluate any current DMMA required training, including materials and curriculum, against the Community Rule.	DMMA	Governor's Commission on CBAID	2/1/15	3/31/15
Evaluate current MCO required training, including materials and curriculum against the Rule.	DMMA	Governor's Commission on CBAID; MCOs	2/1/15	3/31/15
Remediation:				
DMMA makes any necessary changes to training materials and/or curriculum to ensure compliance.	DMMA	Governor's Commission on CBAID	4/1/15	6/30/15
DMMA implements new training and evaluates effectiveness.	DMMA		7/1/15	6/30/16
MCOs make any necessary changes to required trainings (including materials and/or curriculum) to ensure compliance. DMMA must approve changes.	DMMA	MCOs	4/1/15	6/30/15
MCOs implement new curriculum and evaluate effectiveness.	DMMA	Governor's Commission on CBAID; MCOs	7/1/15	6/30/16

Action Item/Approach to Assess Compliance	State Resources	Stakeholder Resources	Proposed Start Date	Proposed End Date
Develop on-going monitoring tools and practices.	DMMA	Governor's Commission on CBAID; MCOs	7/1/15	6/30/16

Comments from DDDS Focus Group Meetings on the DDDS Waiver Portion of the Statewide Transition Plan

DDDS invited key stakeholders to provide input and comment on the DDDS activities outlined in the Plan at two focus group meetings held on January 21, 2015 and January 28, 2015. The meetings were held as part of the required process of public notice in order to allow Delaware to develop a comprehensive Plan. The organizations invited to participate in the meetings include:

- Developmental Disabilities (DD) Council.
- Delaware State Council for Persons with Disabilities (SCPD).
- State Ombudsman.
- Governor's Advisory Council for Exceptional Citizens (GACEC).
- Advisory Council to DDDS.
- Arc of DE.
- The Delaware Association of Rehabilitation Facilities (DELARF).
- People First (self-advocates).
- Disabilities Law Program.
- Delaware Family Voices.
- Waiver Providers.
- Families of individuals receiving DDDS waiver services & other DDDS services.

Those organizations and the public at large will also have the opportunity to provide comments in writing on the DDDS activities and the broader Plan as part of the public comment period.

The following input was received at the focus group meeting convened by DDDS on January 21, 2015.

Public Comments	DDDS Response
A commenter indicated that DDDS should ensure that the Downs Syndrome Assn and Autism Speaks were included in the public input process.	DDDS indicated that it would ensure that these organizations were included on the DDDS listserv that would be used to notify stakeholders when and where the draft Plan would be published for public comment.
A commenter recommended including families of individuals with an intellectual disability who were not enrolled in the DDDS waiver in the public comment process.	Advisory Council to DDDS is made up of family members of both waiver and non-waiver participants, so they represent both groups. The Plan will be posted to the DMMA and DDDS websites and in the Delaware Register of Regulations. The public will be able to comment via multiple avenues.
A commenter recommended that the public comments received once the draft Plan is posted be summarized to avoid repetition but that the number of comments expressing the same notion be noted.	This suggestion was passed on to DMMA since they will be receiving the written public feedback.

Public Comments	DDDS Response
A commenter recommended that the public forums be transcribed as a record of the meeting.	DDDS arranged for the recordings of the two focus group meetings to be transcribed.
A commenter recommended that the state use social media and other commonly used communication venues such as Facebook, Twitter, WDEL and the Delaware Register of Regulations to inform the public where the draft Plan can be found and how to comment.	This recommendation was passed on to DMMA.
A commenter recommended that the Plan be translated into Spanish.	This recommendation was passed on to DMMA.
Several commenters recommended the creation of a Steering Committee to assist with public input, review Plan work products and generally oversee the development and implementation of the assessment phase of the Plan. The chairperson of the Advisory Council to DDDS volunteered for the Advisory Council to DDDS to take on this role. This was unanimously supported by the stakeholders present.	DDDS agreed that the Advisory Council to DDDS would be a logical group to function as a Steering Committee for the DDDS portion of the Plan.
Several providers recommended that the providers be allowed to perform a self-assessment of their policies and procedures and also their settings under the Rule.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the Advisory Council to DDDS create one or more sub-work groups to develop the provider self-assessment instruments and that the working group include representatives from provider agencies as well as families.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the sub-work group leverage survey instruments that may have already been developed by other states.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the provider self-assessment instrument for policies and procedures include a citation and excerpt from a publication that demonstrates compliance with each requirement.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that a look-behind review be conducted by the state of a sample of providers who complete the self-assessment instruments for their policies and settings.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested that the sample of settings to be reviewed as part of the look-behind process be a combination of targeted as well as random reviews.	DDDS has indicated in the Plan that it will use a 20% sample.

Public Comments	DDDS Response
A commenter suggested that Debbie Gottschalk from the Secretary's Office be asked to review Delaware's Landlord/Tenant Code vis-à-vis the Community Rule since she is a lawyer and has extensive experience in this area.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter suggested including the Arc of Delaware's property management staff in a review of HUD home rules vis-à-vis the Community Rule.	DDDS has incorporated this recommendation into its portion of the Plan.
Several commenters indicated that they believed that a likely outcome of the assessment of the settings might be that additional resources will be required in order to come into compliance with the Community Rule.	DDDS has added an action item to its portion of the Plan indicating that resource needs, including a review of staffing ratios necessary to maximize opportunities for community inclusion, will be explored as part of the process of remediation for settings that do not comply with the Rule.

The following input was received at the focus group meeting convened by DDDS on January 28, 2015.

Public Comments	DDDS Response
A commenter suggested that the list of state publications to be reviewed as part of the review of policies, procedures, etc. be qualified with a statement like “including but not limited to” in the event that there are other documents that need to be reviewed in addition to the list presented.	DDDS has incorporated this recommendation into its portion of the Plan.
A commenter recommended that the Division create a “parking lot” for issues that might come up in the development and implementation of the Plan that are outside the scope of the Plan.	DDDS agreed to do this.
A commenter recommended that the Division look for inconsistencies between responses to the NCI survey and the provider self-assessments of settings.	DDDS is exploring whether we can get NCI data at the provider and setting level.
A provider recommended that providers should be represented on the sub-work group of the Advisory Council to DDDS that is going to develop the provider self-assessment instruments.	The Plan does not specify the membership of the sub-work groups other than to say that they will be made up of “stakeholders”, but DDDS did not have any objection to including a provider representative.
Several commenters recommended that DDDS give the providers a list of the policies and procedures that they would be required to submit to document compliance with the Rule.	DDDS did not agree with that approach and indicated that neither it nor the sub-work group of the Advisory Council to DDDS would dictate to providers a set of policies and procedures that would be provided to demonstrate compliance with the Rule. It is incumbent upon each provider, as it completes the self-assessment instrument, to indicate what documentation enabled it to make a finding of compliance or non-compliance with each individual requirement under the Rule.

Comments on Statewide Transition Plan

The following represents comments received on Delaware’s Home and Community Based Services (HCBS) Statewide Transition Plan (the Plan). The Plan was made available for public comment February 6, 2015. This section includes comments that were received through March 9, 2015, which represents thirty days. Comments were received from organizations and individual stakeholders including providers, parents, family members and friends of HCBS participants in Delaware. Nearly one hundred and thirty (130) comments were received from individuals. The following organizations submitted comments on the Plan.

- Disability Law Program at the Delaware Community Legal Aid Society, Inc. (DECLASI)
- Delaware Association of Rehabilitation Facilities (DelARF)
- Governor's Advisory Council for Exceptional Citizens (GACEC)
- Chimes Delaware
- State Council for Persons with Disabilities (SCPD)
- Delaware Developmental Disabilities Council
- National Association of Councils on Developmental Disabilities (NACDD)
- Easter Seals
- University of Delaware

In addition, DMMA would like to thank the Centers for Disabilities Studies at the University of Delaware and Autism Delaware for assisting the State in collecting public comment by organizing a public survey. Survey responses were received and are reflected in the summary below.

The following is a summary of the comments received and State responses, where applicable, to issues identified. The chart also notes the changes that were made to the Plan in response to feedback.

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
1.	Assessment Activities	The State should look for existing survey and processes already in use by other states.	Commenter	We agree that this is beneficial and intend to review existing tools.	
2.	Assessment Activities	A commenter noted support for the proposed “look-behind” review of the provider self-assessment and noted that it is important to have checks and balances so that a provider's information alone is not accepted without verification.	Commenter	We agree with this comment.	
3.	Assessment Activities	There is not a description of relocation processes. The Plan does not discuss relocation processes for people who are being provided services in settings that cannot come into compliance with the regulations. This is an important process to establish early with input from multiple stakeholders.	Commenter Developmental Disabilities Council SCPD	We agree with this comment and will modify the Plan to note that the relocation process will be tailored to each individual, and that DMMA/DDDS will work with the individual and his/her family/caregiver, provider, etc. to develop a smooth transition process that will protect the health and welfare of participants through the process.	X
4.	Assessment Activities	Look-behind reviews should include a site visit.	Commenter Developmental Disabilities Council SCPD	We agree with this comment and will make the necessary modifications to the Plan.	X (DMMA will build in a look-behind process for DSHP)

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
5.	Assessment Activities	On p. 10, the first "bullet" refers to "State laws, regulations, policies, etc. and provider policies". The recommendation is to include "budgets". If funds or incentives are disproportionately allocated to restrictive or non-integrated settings, the Plan is undermined.	DECLASI (2/10) GACEC	Delaware's reimbursement methodology for HCB services under the DDDS waiver is based on the wage scale for the direct support workers providing the HCB services and related costs. Rates are the same for all providers and there are no incentive payments. The DMMA budget for HCB services is currently adequate to fund the services at current payment rates. If the rates need to be adjusted in order to pay for a change in the way services are delivered, additional funds can be requested at that time.	
6.	Assessment Activities	Page 10 of the Plan notes: "As available, NCI data will be analyzed by type of residence in order to identify non-compliance with HCB settings." The NCI data also addresses vocational and employment settings. It would be preferable to also "mine" the NCI data for information on vocational and employment settings.	DECLASI (2/10) GACEC	DDDS intends to utilize the NCI data to the greatest extent possible to assist with the assessment of HCB services and settings against the Community Rule.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
7.	Assessment Activities	<p>On p. 11, the following sections of the Delaware Code should be added to the review:</p> <p>A. Employment First Act (codified at 19 Del.C. §§740-747), since it overlaps with CMS standards;</p> <p>B. DDDS enabling law (codified at 29 Del.C. §7909A);</p> <p>C. DDDS Advisory Council enabling law (codified at 29 Del.C. §7910) since it is given a central role in assessment;</p> <p>D. Interagency Collaborative Team law (codified at 14 Del.C. §3124) since "review will include residential and non-residential settings out of State for which waiver funds are currently being used" (pp. 14 and 34);</p> <p>E. Nurse Practice Act (codified at 24 Del.C. Ch. 19) since restrictions impact settings in which residents receive services; and</p> <p>F. Community-based Attendant Services Act (codified at 16 Del.C. Ch. 94) since DDDS receives funds under Act and Plan mentions at p. 26.</p>	DECLASI (2/10) GACEC	The list included in the Plan was not intended to be exhaustive. All relevant Administrative codes will be reviewed	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
8.	Assessment Activities	On p. 11, the following "Administrative Code" provisions should be added: A. IBSER regulations (16 DE Admin Code 3320) which cover AdvoServ; and B. Family Care Home regulations (16 DE Admin Code 3315) which may cover shared living providers; and C. PASRR regulations (16 DE Admin Code 20000).	DECLASI (2/10) GACEC	The list included in the Plan was not intended to be exhaustive. All relevant Administrative codes will be reviewed.	
9.	Assessment Activities	On p. 12, policies to be reviewed should include PROBIS and HRC. The relevant CMS regulation (42 C.F.R. 441.530) addresses privacy and freedom from coercion and restraint. Both the PROBIS and HRC are the main DDS components protecting such rights.	DECLASI (2/10) GACEC	The policies referenced are included in the list of "DDS policies" that will be reviewed against the Community Rule. There is no need to list them individually.	
10.	Assessment Activities	On p. 13, first paragraph, and p. 19, top entry, the implication is that providers will submit a Corrective Action Plan contemporaneously with their self-assessment results. However, the Plan (p. 22) gives them 90 days to prepare a Corrective Action Plan which then must be reviewed and approved by the State. The 90-day period is too long to simply develop a Corrective Action Plan. Instead consider changing to 30-day period.	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to indicate that the Corrective Action Plan must be submitted within 30 days.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
11.	Assessment Activities	The Plan (p. 13) contemplates a Council subcommittee conducting "look- behind" reviews of a sample of provider self-assessment results. The Plan also envisions the Council developing "dispute resolution processes for the findings". A few commenters recommend that DDDS develop and implement the dispute resolution process. The Advisory Council should not be cast in the role of arbiter of such disputes. Disputes and appeals should be handled by DDDS and DMMA. Cf. reference on p. 14: "An appeal process will be developed to dispute the State's findings of non-compliance." The DDDS Office of Quality Improvement is identified (p. 15) as the agency which monitors compliance with the Community Rule for providers with and without a Corrective Action Plans.	DECLASI (2/10) GACEC	We agree with this comment and will make the necessary modifications to the Plan.	X
12.	Assessment Activities	On p. 13, in the first set of bullets, a few commenters recommend including IBSER group homes which are not neighborhood group homes. The IBSER regulations (§6.2.1) "grandfathered" residences with more than ten residents and the only agency regulated by the IBSER regulations operates its own PROBIS which reduces oversight.	DECLASI (2/10) GACEC	The list included in the Plan was not intended to be exhaustive. All relevant sections of the Administrative Code will be reviewed.	
13.	Assessment Activities	On p. 20, there are references to changing policies but no references to changing statutes and regulations which will be reviewed per p. 11.	DECLASI (2/10) GACEC	We agree with this comment and will make the necessary modifications to the Plan.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
14.	Assessment Activities	Pages 22-23 contemplate DDDS submission of waiver amendments to CMS. Please clarify that DMMA, as the Delaware Medicaid agency, submits such amendments.	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to clarify that DMMA will submit any amendments to CMS.	X
15.	Assessment Activities	On pp. 25 and 34, the Plan notes that "DMMA will consider using its External Quality Review Organization (EQRO) to develop the surveys." This is a rather tentative feature to incorporate in a Plan and suggests that the State is unsure how it will develop the instruments.	DECLASI (2/10) GACEC	The reference to using the EQRO conveys that the State is exploring all possible options to determine the most appropriate course of action for developing the surveys.	
16.	Assessment Activities	On p. 27, the recommendation is to add the Nurse Practice Act, 24 Del.C. Ch. 19, to the list of Delaware Code provisions to review.	DECLASI (2/10) GACEC	The list included in the Plan was not intended to be exhaustive. All relevant Administrative codes will be reviewed.	
17.	Assessment Activities	On p. 27, the Plan envisions MCOs distributing surveys to network providers. I question whether such providers will complete the surveys. Query what incentives exist for providers to complete the surveys? Medicaid MCO reimbursement rates are low and providers may want to be paid for their time. Concomitantly, the Plan has no benchmark for the percentage of providers who will complete the surveys. Will 30%, 50%, or 70% be sufficient?	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to note that benchmarks will be established in addition to creating a process for following up with providers failing to meet requested response timeframes.	X
18.	Assessment Activities	On p. 27, the Plan contemplates providers participating in training to learn how to complete the surveys. Consistent with the preceding comment, what incentive exists for providers to participate in the training.	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to note that DMMA will take into consideration the need for incentives.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
19.	Assessment Activities	On p. 28, second set of bullets, I recommend inserting a reference to revising "budgets".	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to include as a bullet on page 28: "Develop budget strategies to fund remediation as necessary".	X
20.	Assessment Activities	On p. 29, "fair hearing results" could be added to the list of information related to MCO performance.	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to add analysis of fair hearing results to the list of potential compliance monitoring activities.	X
21.	Assessment Activities	It is unclear how Logisticare, the Medicaid transportation broker, will be assessed for compliance with the HCBS Rule. Consistent with Comment #4 above, transportation can be integrated or segregated.	DECLASI (2/10) GACEC	Only those services provided in either a non-residential or residential HCB setting, per CMS expectations, are addressed in the Plan. Transportation services do not fall into this category.	
22.	Assessment Activities	A few commenters questioned the use of the term "remediation strategy" and instead recommend the use of term "Corrective Action Plan"	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to refer to Corrective Action Plan as appropriate.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
23.	Assessment Activities	There is no requirement (p. 33) that provider "remediation strategies" be shared with DMMA. It would obviously help DMMA assess MCO conformity with the Plan if the MCOs shared the "remediation strategies" submitted by providers with the State. The Plan (p. 36) otherwise envisions DMMA monitoring of provider "Corrective Action Plans". Even this is a less strident standard than adopted for DDDS providers. DDDS must approve provider Corrective Action Plans (p. 13) but there is no analogous requirement that DMMA approve provider Corrective Action Plans (p. 36).	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to add language, where appropriate, to clarify that remediation strategies and/or Corrective Action Plans will be approved by DMMA.	X
24.	Assessment Activities	On p. 34, first entry, there is a "disconnect" between the action item (changing policies and procedures) and the proposed end date (a vague "legislative timeframe"). There is no proposed end date for completion of State policy changes.	DECLASI (2/10) GACEC	We agree with this comment and will add language indicating that any changes requiring legislative action must be taken before 3/17/2019.	X
25.	Assessment Activities	While DDDS conducts a pilot of its survey (p. 21), DMMA conducts no pilot. DMMA could reconsider this aspect of the Plan.	DECLASI (2/10) GACEC	DMMA will consider conducting a pilot.	
26.	Assessment Activities	The State is encouraged to incorporate robust assessment standards which do not merely pay "lip service" to the CMS guidance but demonstrate that the State wholeheartedly embraces the underlying values reflected in the guidance.	DECLASI (2/23) GACEC	We are committed to developing a robust process, including standards. We believe that the approach as outlined in the Plan positions us to do just this.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
27.	Assessment Activities	The Plan contemplates both provider and State development of “remediation strategies” to address identified shortcomings. At p. 33 this “targeted” approach to “fixing” specific instances of non-conformity with CMS standards is a logical component of the Plan. However, the Plan could be strengthened through identification of systemic initiatives designed to increase the State’s capacity to offer an array of conforming settings. This would be particularly informative in the context of employment.	DECLASI (2/23) GACEC	DMMA is committed to providing a wide range of available HCBS. We point you to the Pathways to Employment program and the PROMISE program as examples of our commitment to develop and increase meaningful opportunities for employment for Medicaid eligible persons.	
28.	Assessment Activities	The Plan envisions the Department engaging in a “look-behind” review of a 20% sample of provider self-assessments of policies and procedures. At pp 6 and 13 the Plan contemplates completion of these reviews by a single “sub-working group of the GAC”. Realistically, even if the 7-member DDDS Advisory Council assembles a “working group” with some additional members, it may be hard-pressed to conduct a meaningful “look-behind” of numerous providers which operate multiple programs. Moreover, the Plan could be strengthened by clarifying that the “look-behind” is not comprised solely of a marginally effective “paper” review. The “look-behind” should include onsite observation and interviews with program staff, participants and their representatives (including family members).	DECLASI (2/23) GACEC	We agree with this comment. The Plan indicates that the GAC may create one or more sub-working groups to conduct specific activities under the Plan. We have addressed look-behind reviews and our intent in a response to a previous comment.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
29.	Assessment Activities	The Plan contemplates use of participant surveys to gather information (p 27) as well as survey-based NCI data (p 3). As a supplement to this planned assessment process, the State could consider establishing an on-line survey tool (e.g. through Survey Monkey) to allow individuals the opportunity to comment on specific programs. Some individuals may be more comfortable with the ease and anonymity of completing an on-line survey and the questions could be more targeted to CMS standards than the NCI survey.	DECLASI (2/23) GACEC	We will explore the use of an online survey tool as an option for responding to the participant survey.	
30.	Assessment Activities	Provider and DMMA/DDDS Staff should be asked to think not only about the facility/setting itself when a self-evaluation is being completed, but whether or not compliance with the rule is applied to each individual served.	SCPD	The assessment tool will include a focus on the individual.	
31.	Assessment Activities	One commenter asked: who is developing the assessment tool and will it be available for public review before being implemented?	Commenter	The GAC and the GCCBA have been designated as the Steering Committees that will be responsible for the development of the assessment tools. These bodies will be augmented with additional resources as necessary to ensure representation of the broad stakeholder group.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
32.	Assessment Activities	There is concern about the process that develops the survey instruments and processes. The Plan could benefit from greater description about the survey instrument and process. As described, the process does not appear to be fully transparent.	State Representative	As we move forward to flesh out the details of the survey process, we will we seek broad public input.	
33.	Availability of Options	Implementation of the Plan should preserve a broad range of choices for housing (including group homes and intentional communities) and employment services (including pre-vocational services such as work-based facilities/sheltered workshops). Many relatives of participants in pre-vocational services related that these settings are safe and provide an important protected environment for participants to develop skills.	Multiple Commenters	We understand and share your commitment to making sure participants are safe, protected, and have the services and supports they need. The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
34.	Availability of Options	DMMA should ensure the continued availability of current providers such as Elwyn, KSI and Chimes and the services they provide. Implementation of the Plan should preserve all currently available options.	Multiple Commenters Chimes	The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	
35.	Availability of Options	The Transition Plan should include language that stipulates the need for all the existing options, and it should also be free of any pre-conceived notions, theories or ideas that would restrict the choices that should be available to all individuals with special needs. New options that enhance or complement the existing options would certainly be welcomed.	Commenter	The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	
36.	Availability of Options	Many commenters encouraged Delaware to avoid using a “one-size-fits-all” approach to considering supports and services for people with disabilities. Not all disabilities are the same and not all people with disabilities are the same. What is restrictive for one person is not restrictive for another. Options, including housing options and employment options, need to be based on the needs of the individual.	Multiple Commenters Chimes of Delaware	The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
37.	Availability of Options	Many relatives described the effect that losing the option of work-based facilities and sheltered workshop would have on their family members.	Multiple Commenters	All current recipients of day services will continue to receive day services. How services are delivered may or may not need to be modified based on the outcome of the assessment process. The assessment tool will be developed using CMS guidelines and input from stakeholders.	
38.	Availability of Options	Current employment opportunities are limited in areas such as Sussex County.	Multiple Commenters	The Department agrees that employment opportunities need to be expanded across all Delaware counties.	
39.	Availability of Options	Commenters expressed concerns about limiting group homes to two or three residents per home and limiting the availability of foster family arrangements thereby forcing persons into higher occupancy group homes and apartments.	Multiple Commenters	The Community Rule does not specifically address the size of the residential settings. The current approved DDDS waiver indicates that waiver residences will house no more than four individuals. Nothing in the new Community Rule requires DDDS to change this.	
40.	Availability of Options	Several commenters disagreed with sheltered workshops and gated communities as viable community options for disabled persons.	Multiple Commenters	The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
41.	Availability of Options	Programs should not mandate a disabled to non-disabled ratio of participants and should allow for the full range of vocational services that currently exists, including facility-based prevocational programming and supported employment.	Commenter	The Plan will help to identify which of the current services and settings meet the characteristics of HCB setting that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	
42.	Availability of Options	Integrated, safe, accessible and affordable disability housing is a challenge in Delaware with limited options for choice. Private and public partnerships for housing options must be encouraged and embraced and not diminished or discouraged in Delaware.	Commenter	The Department will continue to maintain and expand its partnerships with its housing providers. The Plan will assist in identifying settings that meet the characteristics of HCB settings that can be covered under HCBS programs. The assessment will provide guidelines to housing partners.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
43.	Availability of Options	There is concern that some existing programs, such as group homes with four or more residents, and sheltered workshops, would be prohibited until the new 2019 federal guidelines. You indicated in your emailed statement that 'the Rule does not require any of those changes.' Can you ensure that this assurance is also contained prominently in the Transition Plan?	State Representative	The current DDDS waiver allows for group homes of four or less individuals. The Plan will not alter the approved capacity. The Plan assessment will evaluate the experiences of the individuals in those group home settings. Pre- vocational services provided in a sheltered workshop setting will be evaluated by the Plan assessment to measure compliance with the HCB settings that can be covered under the HCBS program. Services and setting that do not comply with the Rule will have the opportunity to engage in remediation to come into compliance with the Rule prior to March 17, 2019.	
44.	Availability of Options	There is a concern as to whether 1) all existing options will be permitted, that 2) dollars will follow the client, and 3) the client (and/or family) will have a role in selecting which option the client obtains, rather than to have 'the system' make that selection on their behalf. If these overriding goals are also goals of DDDS, perhaps it would be helpful to share them (or perhaps other, similar overarching goals) near the front of the transition plan, to allay the anxiety that several parties are experiencing.	State Representative	Person centered planning is the basis for all HCB services, allowing the individuals and their family to choose their services. HCBS funds are individually allocated and the person chooses what services meet the needs defined in their plan.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
45.	Availability of Options	There is concern that DDDS could curtail existing programs in advance of the 1019 deadline, and this is worrisome. Could the Plan be clear regarding what kind of changes, if any, would be 'on the table' prior to the 3/17/2019 federal deadline?	State Representative	No services will be curtailed in advance of 10/19. If services are assessed and are found not be in compliance with the Rule, then they will have opportunity to come into compliance.	
46.	Availability of Options	There is not a discussion of how Delaware will ensure that individuals have a choice of "non-disability specific" setting and private units. Delaware should evaluate its current capacity of non-disability specific settings and develop a plan to increase capacity. Current community services are very segregated in Delaware and the lack of capacity of non-disability specific settings is particularly acute for non-residential services, where the majority of Delaware's current settings are disability specific.	Commenter Developmental Disabilities Council SCPD	Choice of non-disability settings is an inherent part of the person-centered planning process. This is one of the components of the Community Rule that will be reviewed as part of the assessment of State laws, regulations and policies as well as provider practices regarding person-centered planning.	
47.	Barriers to Community Integration	Many commenters described the challenges to community integration that they currently face, including the lack of handicapped parking spaces, lack of handicap-accessible and barriers due to transportation.	Multiple Commenters	We acknowledge this comment.	
48.	Barriers to Community Integration	Time limits for employment should not be included in the Plan in order to facilitate successful job placements.	Multiple Commenters	If we understand the comment correctly, there are no time limits currently included in the Plan associated with time limits for employment.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
49.	Characteristics of Work Environment	The Plan should include a provision that each work environment is safe for the particular needs of mentally challenged individuals. Work environments should be structured and stress-free.	Commenter	The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	
50.	Characteristics of Work Environment	Remuneration for work performed should be fair, but does not need to be minimum wage.	Commenter	The Plan evaluates settings not sub minimum wage.	
51.	Characteristics of Work Environment	Commenters stressed the importance of training supervisors and staff in relating to persons with disabilities.	Multiple Commenters	Department agrees with the comment.	
52.	Characteristics of Work Environment	The Plan should include a provision giving persons with disabilities the option to work with other disabled individuals.	Commenter	The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
53.	Characteristics of Work Environment	The Plan should include a provision for disabled individuals at any skill level to start in a program and work up to a less restrictive environment.	Commenter	By definition, prevocational service is designed to meet the needs of individuals who may not be ready for competitive employment but who have competitive employment as their goal. There is no plan to remove this service from the DDDS waiver.	
54.	Close of Public Comment Period	The advertised time period for public comment does not meet the federal standard. CMS requires "at least a 30-day public notice and comment period" [42 C.F.R. §441.710(a)(l); 79 Fed Reg. 3033 (January 16, 2014)]. In contrast, comments on the Plan must be received by 4:30p.m. on March 6, 2015.	DECLASI (2/10) GACEC	The end of the public comment period was revised to March 9, 2015.	
55.	Incentives	The Plan should be business friendly and should provide incentives to businesses to hire individuals with disabilities.	Commenter	The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
56.	Increase Capacity for Community Employment	We encourage the State to increase capacity for community employment. The Plan does not really address increasing capacity in any creative way. New York has ceased new admissions to sheltered workshops. It created a tax credit for employers to hire persons with developmental disabilities who are either unemployed or working in sheltered workshops. The State has to assume a higher percentage of individuals with developmental disabilities will qualify for integrated employment. It needs to expand capacity/incentives so employers hire them. This needs to be incorporated in the Plan.	Developmental Disabilities Council	The Department agrees with the comment.	
57.	Increase Capacity for Community Employment	Reduce the economic uncertainty for service providers in order to encourage innovation and investment to further improve quality and increase capacity of services. By recognizing that one service model does not fit all, insist that DDDS work with providers to create programs that can be tailored to meet individuals' needs.	Commenter	The Plan will help to identify which of the current services and settings meet the characteristics of HCB setting that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019. The Department will work with all providers to develop transition/remediation plans, including investment in quality outcomes.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
58.	Oversight Body	A few commenters recommended adding the State Council for Persons with Disabilities to the "team". It is a State agency charged with reviewing "all State policies, plans, programsconcerning persons with disabilities...conducted or assisted...by State departments' and making "recommendations to ...all State departments...respecting ways to improve the administration of services for persons with disabilities and for facilitating the implementation of new or expanded programs."	DECLASI (2/10) GACEC	DMMA agrees to take a look at the composition of the oversight body and add members as needed. We will also consider smaller work groups.	
59.	Oversight Body	The Plan (p. 8) mentions that the "oversight body" will meet "regularly". This is unduly obtuse. It would be preferable to at least include a minimum schedule (e.g. quarterly; monthly).	DECLASI (2/10) GACEC	We agree with this comment and will modify the Plan to note that the advisory council will meet, at a minimum, monthly, but will meet more frequently if necessary depending on the task at hand.	X
60.	Oversight Body	The references to "Governor's Advisory Council" (p. 10) and "GAC" (seriatim) are not appropriate. The current statute (29 Del.C. §7910) refers to the "Advisory Council to the Division of Developmental Disabilities Services".	DECLASI (2/10) GACEC	We agree with this comment and will make the necessary modifications to the Plan.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
61.	Oversight Body	On p. 17, last entry, the reference to "charter" is odd. Councils do not create "charters". The deadline (March 17, 2015) to develop the operational standards is also too short.	DECLASI (2/10) GACEC	Because the Plan is requesting the GAC to perform a role that is specific and time-limited and is somewhat different than what it is supposed to do under Title 29 of the Delaware Code, we felt that it was important to define that role via a Charter or other similar document.	
62.	Oversight Body	On p. 25, the State identifies the Governor's Commission on Community-Based Alternatives for Individuals with Disabilities as the primary stakeholder group to inform the decision-making regarding assessments. The Commission meets infrequently. Moreover, there is no "end date" for confirming the Commission's role as the advisory body for the assessment process (pp. 31-32).	DECLASI (2/10) GACEC	We agree with this comment. DMMA will discuss with the Commission the importance of their role in implementing the Plan and the need to meet more frequently. 2/23 is intended to serve as the start and end date for this task and will modify the Plan to note this date.	X
63.	Oversight Body	On p. 32, the reference to the Commission creation of a "charter" is odd. A Commission does not create a "charter".	DECLASI (2/10) GACEC	Because the Plan is requesting the Commission to perform a role that is specific and time-limited and is somewhat different than what it is supposed to do under Executive Order 50, we felt that it was important to define that role via a Charter or other similar document.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
64.	Oversight Body	The Division of Developmental Disabilities Services (DDDS) should ensure that the Governor's Advisory Council to DDDS and its subgroups, which have been set up to implement the Transition Plan, continue to be as representative of all stakeholders within the DDDS system as the Focus Group process was. To do so, we recommend including additional family members of individuals with the most challenging support needs currently served in center-based settings. We believe that Delaware's citizens should be proud of the separate aids, benefits, or services that have been developed to serve those individuals who truly need them, as determined through a person-centered planning process. That is why we want to make sure that the discussions in the planning groups don't rule out any of these options strictly on the basis of the "Settings that Isolate" guidance posted on the CMS website, which has a completely different emphasis than the guidance on non-residential services that was issued by CMS on December 15, 2014.	DeIARF	It is DDDS's intention to encourage the GAC to create subgroups that include family members who represent the varying support needs of people within the DDDS service system and other key stakeholders.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
65.	Oversight Body	Legislative representation should be added to the GAC's work groups, so that cost estimates for any changes that are proposed in the DDS service system can be fully discussed, made realistic, and ultimately receive the support of the General Assembly. We are pleased that the Transition Plan makes reference to the rate system in Section 3 in the "matrix" and we think it would make sense to reflect the existing shortfall in the narrative under Phase 2 and 3, as well. We also want to make sure that transportation is viewed as a necessary support for community inclusion, and therefore, that it be included in the plan and the financial impact assessment. Above all, we want to be sure that changes proposed to bring the state into compliance do not increase the funding gap, because that could result in a number of unintended consequences, including diminished access to services and additional demand for out-of-home placements by families who have adults with disabilities living with them. Therefore, we would recommend the inclusion of representation by the General Assembly and the Office of Management and Budget in the plan's narrative, in Phase 3, and in Section 3 of the matrix.	DeIARF	DMMA will take a very close look at the composition of the work groups and add members when necessary. We will take this request under consideration. Transportation will be evaluated in the context of whether it facilitates the ability of consumers to access resources in the community.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
66.	Oversight Body	SCPD recommends that it be added to the list on p. 8 and p. 31 regarding the “Oversight Body”.	SCPD	It is our intent to include as wide a representation of stakeholders as possible in the implementation of the Plan.	
67.	Oversight Body	One commenter asked whether the Governor’s Commission on CBAID takes precedence over the Governor’s Advisory Council.	Commenter	No, each group will work with its stakeholders who are subject matter experts.	
68.	Paid Relatives	The recommendation was made to make funding available to allow relatives to serve as paid providers.	Commenter	The purpose of the Community Rule is to ensure that HCBS that were provided as of March 17, 2013, the effective date of the Community Rule, are in compliance with the definition of “community”. The Plan does not address providing new services or changing services that are compliant with the Community Rule.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
69.	Pathways and PROMISE Programs	A few commenters questioned the approach of not including the Pathways and PROMISE programs within the scope of the Plan (p. 3) since the programs were previously approved by CMS after issuance of the January, 2014 CMS regulations.	DECLASI (2/10) GACEC	CMS has made it clear in several venues that the Plan requirements prescribed in the Community Rule apply only to the existing HCBS programs operating as of the effective date of the Community Rule, March 17, 2014. All new programs are required to meet the requirements effective upon approval. For example, section 441.710(a)(3)(i) of the Community Rule notes: “States submitting state plan amendments for new section 1915(i) of the Act benefits must provide assurances of compliance with the requirements of this section for home and community-based settings as of the effective date of the state plan amendment.” Furthermore, in negotiations with CMS regarding approval of both the Pathways and PROMISE programs, CMS notified DMMA that the programs would not be approved unless all requirements of the Community Rule, including requirements for HCB settings, were first met. The quality assurance sections of the Pathways application approved by CMS include measures to monitor the ongoing compliance of program services and settings with the Community Rule.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
70.	Person-Centered Planning	The CMS regulations stress the importance of the "person-centered planning process". The Plan contains some brief references to a "person-centered plan" (pp. 3, 12) but the Plan could benefit from the incorporation of more specifics on revamping the current DDDS ELP plans and DSHP care plans to conform to the federal standards. At a minimum, the matrix on pp. 18-19 could specifically highlight the "person-centered planning process" as one of the core State policies meriting review.	DECLASI (2/10) GACEC Developmental Disabilities Council	The Essential Lifestyle Plan (ELP) is considered a best practice for person-centered planning for persons receiving HCBS. The ELP has been in continuous use by DDDS since 1998. The Community Rule makes it clear that their expectation is that states must already be compliant with the requirement for person-centered planning as of March 17, 2014, the effective date of the Community Rule. Since DDDS is already compliant with this requirement, there is no need to address it in the Plan. DDDS continues to refine the ELP process, as the needs of our population change. In addition, DMMA's existing contract with the MCOs require the MCOs to use a person-centered planning process in developing a member's DSHP Plus LTSS case management plan, clinical care coordination plan, or MFP transition plan.	
71.	Person-Centered Planning	DDDS should allow families to decide on services based on their loved one's individual needs and through money that follows the person.	Multiple Commenters	The intent of the required person-centered planning process is to develop a plan that is unique to each individual using the services that meet the characteristics of HCBS.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
72.	Person-Centered Planning	Easter Seals fully endorses each individual's right to choose what his or her services look like.	Easter Seals	Nothing about the Plan will change the basic right under Medicaid for individuals to choose among a set of waiver-covered services delivered by a set of qualified providers. The Plan will help to identify which of the current services and settings meet the characteristics of HCB settings that can be covered under an HCBS program. Services and settings that do not comply with the Community Rule have an opportunity to engage in remediation to come into compliance with the Community Rule before March 17, 2019.	
73.	Plan Implementation	One commenter recommended that the Plan announce the State's intent to create a blueprint for how the services and supports system will look five years from now and specify the timeframe within which it will be completed. People with disabilities, their families, and our provider networks can be much more effective partners in this endeavor when the road ahead is more well-defined.	University of Delaware	The Department agrees with the comment and will engage stakeholders as the Plan evolves.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
74.	Plan Implementation	As Delaware moves forward in its efforts to comply with the CMS Rule, SCPD encourages the State to strictly follow the Olmstead guidance on integrated versus segregated settings and the CMS guidance on settings that have the effect of isolating individuals receiving HCBS from the broader community.	SCPD	In providing HCBS, we are held to the requirements of both the Olmstead decision and the Community Rule.	
75.	Quality of Services	We are very hopeful that as states, including the State of Delaware, begin to implement their transition plan, quality of services for all will improve. The new requirements put forth by CMS include a detailed person-centered planning process, rights and protections for those living in provider-owned settings, and a choice of receiving services in a non-disability setting. These are new requirements that we believe are critically important to creating real community options and we believe that states can work to make these options happen in a timely way.	NACDD	We acknowledge this comment.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
76.	Service Definitions	On p. 3, the State recites that it is listing "the service definition from the approved waiver". This is not entirely accurate. For example, the "definitions" of "prevocational services", "day habilitation" and "residential habilitation" are partial excerpts from the attached (pp. 40-45) service definitions in the DDDS waiver. "Transportation" references included in the DDDS waiver service definitions have been uniformly omitted from definitions in the Plan. This suggests that transportation will not be addressed in the Plan. Waiver-funded transportation should be included in the Plan. For example, use of integrated transportation (taxi; bus; mileage reimbursement) may be preferable to use of paratransit or an identified van with only riders with disabilities.	DECLASI (2/10) GACEC	The language provided in the Plan are excerpts from the approved service definitions intended to convey the intent of the definition. Transportation is not a stand-alone service under the DDDS waiver; it is a component part of residential habilitation, day habilitation and prevocational services, as allowed by CMS. Transportation will be evaluated in the context of whether it facilitates the ability of consumers to access resources in the community.	
77.	Stakeholder Engagement	We ask that the Division of Medicaid and Medical Assistance ensure that parents are involved in the assessment and planning process referred to in the Transition Plan.	Multiple commenters	It is our intent to include as wide a representation of stakeholders as possible in the implementation of the Plan.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
78.	Stakeholder Engagement	There needs to be further opportunities for significant public comment. The February 6th Transition Plan describes the process the State will use to evaluate its current system and bring it into compliance with the HCBS rules, but it resembles a plan to plan. As the State completes its assessment process and begins to develop remediation plans for settings not currently in compliance, the public should have an opportunity to give input before the revised plan is submitted to CMS for approval.	Commenter Developmental Disabilities Council	At any point significant changes are made to the Plan, the Plan will be posted for public comment. The Plan will be updated accordingly.	
79.	Stakeholder Engagement	On p. 10, the Employment First Commission should be added as a source of information and analysis. Per 19 Del.C. §747, the Commission reviews and analyzes data on employment of persons with disabilities. Apart from the NCI data, the Commission may have supplemental information to assist with assessment of access to integrated, competitive employment.	DECLASI (2/10) GACEC	As the Employment First Commission develops outcome data, it will be incorporated into the process used to evaluate employment services.	
80.	Stakeholder Engagement	The Plan is inconsistent in sometimes referring to a single GAC work group (p. 12; p. 14) and sometimes referring to multiple GAC work groups (p. 10 at top; p. 20 at bottom).	DECLASI (2/10) GACEC	We agree with this comment. The first paragraph on page 10 of the Plan states that DDDS will work with the GAC and any work groups convened by the Council. We will clarify in the Plan that the GAC is intended to operate as a steering committee.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
81.	Stakeholder Engagement	The Plan should include standards for the composition of the Council subcommittees/work groups to promote objectivity and absence of conflicts. The Plan suggests (p. 42) that DDDS envisions including a single provider representative on the assessment subcommittee. However, there is nothing in the Plan which would preclude establishment of a subcommittee comprised of a high percentage of providers who may have a vested interest in adopting an anemic assessment instrument. The membership of the subcommittees would ostensibly not be limited to the small (seven member) Council membership. Perhaps the Council could vote to establish a protocol in which the Council chair and DDDS director would jointly appoint the members of the subcommittees. Alternatively, the Plan could include some explicit membership standards to ensure the objectivity of the subcommittees. It would also be prudent to include one or more DDDS employees on the subcommittees.	DECLASI (2/10) GACEC	We agree with this comment. The GAC will determine the composition of the working groups. It is our expectation that the groups be representative of the major stakeholder groups. We will add language to this effect. DDDS employees will attend all GAC and GAC working group meetings both to act as staff to the group and also to provide expertise.	X
82.	Stakeholder Engagement	The Transition Plan submitted by the State of Delaware should be written to accurately reflect the public input that is received in the public hearings and in written comments being submitted to DMMA.	DeIARF	It is our intent to accurately reflect all comments received on the Plan.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
83.	Stakeholder Engagement	The National Association of Councils on Developmental Disabilities (NACDD) is pleased that the State of Delaware will be holding several hearings this week to hear testimony on the Delaware Statewide Transition Plan related to the Centers for Medicare and Medicaid Services (CMS) Home and Community-Based settings rule. The hearings provide an important opportunity for individuals with disabilities, their families and all those who provide care an opportunity to speak out about the rule and its impact.		The Department values stakeholder input.	
84.	Stakeholder Engagement	It is critically important that representatives of all types of service recipients be involved, including individuals with the most challenging support needs. Easter Seals recommends that at least five to seven individuals/family members and no less than five service providers should be included in the Steering Committee and subsequent work groups. These should be consumers and providers who represent a range of services in order that varied support needs are considered.	Easter Seals	It is DDDS's intention to encourage the GAC to create subgroups that include self-advocates, family members, and other stakeholders who represent the varying support needs of people within the DDDS service system and other key stakeholders.	

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
85.	Stakeholder Engagement	<p>SCPD is unclear why the only stakeholder for the following action items on p. 32 is the Delaware Healthcare Facilities Association:</p> <ul style="list-style-type: none"> Identify HUD Homes and any financial or other terms that impact compliance; and Conduct review of Delaware landlord/tenant code vis-à-vis the Rule. <p>At a minimum, the SCPD/Governor's Commission Housing Committee should be included as a stakeholder.</p>	SCPD	It is our intent to include as wide a representation of stakeholders as possible in the implementation of the Plan.	
86.	Stakeholder Engagement	One commenter encouraged the State to involve legislators and OMB in implementing the Plan.	Commenter	It is our intent to include as wide a representation of stakeholders as possible in the implementation of the Plan.	
87.	Stakeholder Engagement	One commenter expressed concern that the Plan is a "top-down" plan rolling out from a federal bureaucracy.	Multiple Commenters	This is not our intent. It is our intent to include as wide a representation of stakeholders as possible in the implementation of the Plan.	
88.	Support of the Plan	Many commenters wrote to express their support of the draft Plan.	Multiple Commenters SCPD	We acknowledge this comment.	
89.	Support of the Plan	The draft Plan is a good start on the process of transitioning and has positive steps toward that end.	Developmental Disabilities Council	Department appreciates the comment.	
90.	Technical Correction	On p. 13, second paragraph, fourth sentence, substitute "indicate" for "indicates".	DECLASI (2/10) GACEC	We agree with this comment and will make the necessary modifications to the Plan.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
91.	Technical Correction	On p. 13, final bullet, modify the reference to read "(i) informed consent of the individual or legal representative. See 42 C.F.R. §441.301(1).	DECLASI (2/10) GACEC	We agree with this comment and will make the necessary modifications to the Plan.	X
92.	Technical Correction	On p. 33, the Plan includes a proposed end date of "9/31/15". There are only 30 days in September.	DECLASI (2/10) GACEC	We agree with this comment and will make the necessary modifications to the Plan.	X
93.	Technical Correction	There are multiple references to the "Governor's Commission on Community Based Alternatives for Individuals with Disabilities." The actual reference should be the "Governor's Commission on Building Access to Community Based Services."	SCPD	We acknowledge the comment but we cannot change the name in that this is the name of the body in Executive Order 50.	
94.	Timeline	The time line is extended beyond what is reasonable, as written remediation strategies will not be implemented until February and May of 2017, leaving insufficient time for the actual implementation, including the relocation of any individuals from settings that prove unable to come into compliance. Commenters urged the State to move more quickly and give the HCBS service system more time to reach compliance by 2019. The Delaware system should not wait until 2017 to begin the actual transition and transformation.	Commenter Developmental Disabilities Council SCPD	We agree with this comment and will make the necessary modifications to the Plan.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
95.	Timeline	<p>There are some inconsistencies in the time periods in the matrix. The following are examples.</p> <p>A. On p. 18, development of the self-assessment instrument has a proposed end date of 4/24/15. On p. 20, development of the self-assessment instrument has an end date of 5/31/15. On p. 21, development of the self-assessment instrument has an end date of 5/31/15.</p> <p>B. On p. 18, last entry, providers have a 7/31/15 end date to complete their self-assessment. In contrast, p. 21 indicates that only three providers will complete the assessment as a pilot to identify "bugs" in the survey instrument by 7/15/15 and a revised survey instrument will be developed by 8/15/15.</p> <p>C. On p. 19, there is a 2/28/16 end date to complete a "look-behind" review of a 20% sample of the provider self-assessments. In contrast, on p. 21, final entry, there is an 8/31/16 end date to review a 20% sample of provider self-assessments.</p>	DECLASI (2/10) GACEC	<p>A. The provider self-assessment tools described on pages 18 and 20 & 21 are different tools. The tool described on page 18 with a due date of 4/24/15 is the tool for providers to assess their policies and procedures, etc. The tools for which the due date is 5/31/15 are for the providers to use to assess their actual settings.</p> <p>B. The survey tool on p. 18 with the due date of 7/31/15 is related to the provider policies and procedures. The survey tool referred to on page 21 is to assess the individual settings. They are two different survey tools.</p> <p>C. The tool referred to on p. 19 with the due date of 2/28/15 is related to the provider policies and procedures. The tool referred to on page 21 with the 8/31/15 due date is related to the HCB settings.</p>	
96.	Timeline	On p. 35, the Plan contemplates a 5-month period (10/11/15 to 2/29/16) for providers to conduct a self-assessment and participants to complete participant surveys. This period is unnecessarily long.	DECLASI (2/10) GACEC	We agree with this comment and will make the necessary modifications to the Plan.	X

Comment Number	Theme	Comment	Commenter	Response	Change to Plan – noted by X
97.	Timeline	The timelines in the plan should be adjusted so that each phase has sufficient time to be fully evaluated and implemented, to ensure that changes made are based on a thorough understanding of the system that is currently in place and a sound fiscal analysis of the changes that are proposed. Therefore, we suggest that the plan reduce the amount of time during which the assessments are completed during Phase 2 and correspondingly, that the plan increase the amount of time needed for full consideration of the budget impact in both Phase 3 and 4, i.e., for the determination of compliance and implementation of changes. It might also be helpful to align Phase 4 with the State's fiscal year, i.e., to begin it on July 1, 2016 instead of November 2016.	DeIARF	We agree with this comment and will make the necessary modifications to the Plan.	X
98.	Timeline	We highly recommend that this Plan include an "end date" for completion of State policy changes.	Developmental Disabilities Council	We agree with this comment and will modify the Plan to indicate that revised language for any policies, regulations, etc. that are found not to be compliant will be developed by 1/31/17.	X
99.	Timeline	NACDD believes it is very important for all to understand that states have up to five years to come into compliance with the rules.	NACDD	We acknowledge the comment.	